

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
MC ALLEN DIVISION

UNITED STATES OF AMERICA,	)	CASE NO: 7:13-CR-070-12
	)	
Plaintiff,	)	CRIMINAL
	)	
vs.	)	McAllen, Texas
	)	
JORGE GARZA,	)	Friday, August 2, 2013
	)	(11:22 a.m. to 11:52 a.m.)
Defendant.	)	( 1:37 p.m. to 2:54 p.m.)
	)	( 3:13 p.m. to 4:04 p.m.)

TESTIMONY OF GUADALUPE TREVINO DURING JURY TRIAL - DAY 4

BEFORE THE HONORABLE RANDY CRANE,  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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1 McAllen, Texas; Friday, August 2, 2013; 11:22 a.m.

2 (Partial transcript; testimony of Guadalupe Trevino)

3 (Jurors present)

4 THE COURT: All right. Good morning again. Please  
5 be seated. All right. Mr. Trevino, if you'd please raise  
6 your right to be administered the oath.

7 GUADALUPE TREVINO, DEFENDANT'S WITNESS, SWORN

8 THE COURT: All right. If you would please be  
9 seated. All right. Ms. Gutierrez, whenever you're ready.

10 MS. GUTIERREZ: Thank you, your Honor. Good morning,  
11 Mr. Trevino.

12 THE WITNESS: Good morning.

13 MS. GUTIERREZ: Mr. Trevino --

14 THE COURT: Let's begin with his name for the record.

15 DIRECT EXAMINATION

16 BY MS. GUTIERREZ:

17 Q Can you please state your full name?

18 A My full name is Guadalupe Lupe Trevino, Junior.

19 Q Sheriff Trevino, you are at this time the Sheriff of  
20 Hidalgo County, correct?

21 A I'm the current elected Sheriff of Hidalgo County.

22 Q And in -- within the Hidalgo County Sheriff's Office, you  
23 have a system by where all your policies and your rules are  
24 enforced, correct?

25 A Oh, yes. And -- but I don't understand. What do you mean

1 by a "system?" What do you mean -- understand --

2 Q Well, and I'll get there. You aren't the one that on a  
3 daily basis can enforce every single policy and rule within the  
4 Hidalgo County Sheriff's Office and, therefore, you delegate  
5 that, correct?

6 A I am the final say-so on the rules and regulations, but  
7 we're such a large organization, probably the seventh largest  
8 sheriff's Office in the State of Texas, and I do have a command  
9 structure and a delegation system, yes.

10 Q And within that command structure, you have what are  
11 called commanders that are -- that would fall at the next level  
12 after yourself, correct?

13 A For -- well, yes, partially correct. Commanders are  
14 actually administrative and field operation supervisors. But  
15 then there is a whole slew of supervisors under them. Between  
16 them and the Sheriff's Office, there's a chief of staff, but  
17 the chief of staff has no supervisory capabilities over the  
18 commanders rather than just as an advisor and somebody that  
19 makes sure that things run seamlessly between all four bureaus.

20 Q Okay. And so then what you stated so far is yourself,  
21 your commanders, and then supervisors. Correct?

22 A If you want the -- you asked me about -- if you want the  
23 command structure, it is the Sheriff, we have a chief of staff  
24 off to the side, then we have commanders, we have captains --  
25 commanders are in charge of bureaus; captains are in charge of

1 divisions; lieutenants are in charge of sections; sergeants are  
2 in charge of units. And that is the way we delegate.

3 Q And currently you have as the commander Jose Padilla,  
4 correct?

5 A That's correct.

6 Q And Jose Padilla is currently in charge of the special  
7 services; is that right?

8 A Well, at one time he was in charge of special services,  
9 but we have reorganized and he is now in charge of support  
10 services, which support services as -- is not a law enforcement  
11 function as far as arrests and seizures and that sort of thing.  
12 Support services takes care of civil warrants, the county  
13 courthouse security detail, and other areas like that. There  
14 may be a couple more. The -- our training staff, our academy.  
15 They support the law enforcement function.

16 Q Okay. And is that the only thing he oversees, the support  
17 services?

18 A That's right.

19 Q Okay.

20 A That's -- well, it's the Support Services Bureau.

21 Q Bureau, okay. Well, when was that -- you mentioned that  
22 there was a change implemented (indiscernible).

23 A Yes. We reorganized after everything was brought out  
24 after the Panama Unit arrest. I reorganized everything after  
25 that.

1 Q Okay. Well, since December of last year, there's been  
2 some changes, correct?

3 A I think it's -- I think we organized -- even though the  
4 Panama Unit thing busted out the 12th of December of '12, we  
5 organized in -- I'm not really sure. I'd have to look at the  
6 paperwork. And I -- but I would say it was between February  
7 and March when we reorganized. I would have to look at the  
8 documents exactly when we had those meetings and we  
9 reorganized.

10 Q Okay. But for certain, it was implemented in 2013,  
11 correct?

12 A Absolutely, yes.

13 Q So let's focus on the period of time that this case is  
14 dealing with, which is January of 2009 through December of  
15 2012.

16 A Okay.

17 Q Okay? And at that time, Jose Padilla was not only in  
18 charge of support services, but he was in charge of others,  
19 correct?

20 A At that time, that bureau was known as the Special  
21 Services Bureau. And if I remember correctly -- and, again,  
22 I'd have to refer to documents -- and you're going to have to  
23 give me some leeway here because I don't have our  
24 organizational documents in front of me, and I certainly did  
25 not study them before I came on the stand -- but back then, the

1 Special Services Bureau was in charge of all tactical  
2 operations, which meant all our SWAT teams, our tactical patrol  
3 teams, our K9s, the courthouse security, civil and warrants,  
4 academy, and some other areas. Again, I don't want -- I don't  
5 have all -- but it was -- that's -- and the gist of it is, it  
6 was more tactical operations than it was support.

7 Q Okay. Where did Crime Stoppers Division fall in?

8 A Crime Stoppers fell under Commander Joe Padilla's bureau.

9 Q Okay. And was that -- is it support service?

10 A It was -- well, again, you know, we're still talking time  
11 period of '09, then that -- back then, you have to keep in mind  
12 that was called Special Services. It is now called Support  
13 Services. "Special" because of the tactical part. That's been  
14 removed into another bureau. So just -- you know, I'm just  
15 trying to be as accurate as I can here.

16 Q So really Special Services became Support Services,  
17 correct?

18 A With some deletions, yeah.

19 Q Okay.

20 A With some changes.

21 Q Okay. So then I will refer to it as "special services"  
22 because that was what it was during that period of time,  
23 correct?

24 A That's fine with me.

25 Q But is that accurate?

1 A It is accurate if you are describing the time period --  
2 let's say '09.

3 Q Uh-huh.

4 A And in '10 and '11 up to the first part of this year,  
5 you'd be correct.

6 Q Okay. And so during the period of 2009 through the end of  
7 December of 2012, Joe Padilla was in charge of the Crime  
8 Stoppers Division, correct?

9 A That's correct. They fell under him, that's correct.

10 Q And just so I'm accurate, was it -- is it called Crime  
11 Stoppers Division or Crime Stoppers Department?

12 A It's called -- well, it was called Crime Stoppers Unit,  
13 and that would fall under the direction or supervision of a  
14 sergeant. But we were so shorthanded -- and, besides, the unit  
15 was only at the maximum two people -- I could not waste a  
16 sergeant to supervise two individuals. It just wouldn't make  
17 sense with the size of our organization. So the Crime Stoppers  
18 Unit, I think it was a two-man unit at the time, fell directly  
19 under Commander Joe Padilla.

20 Q So because you couldn't have a man supervising two men  
21 under the Crime Stoppers Unit, basically Joe Padilla was their  
22 supervisor, correct?

23 A That's correct.

24 Q Okay. And Joe Padilla reports to you; isn't that true?

25 A He reports directly to me, that's correct.



1 Q And you are in constant communication with Joe Padilla  
2 with respect to the daily activities that go on in your -- the  
3 Hidalgo County Sheriff's Office?

4 A I'm in constant communication with all my commanders and  
5 captains with the executive and command staff, on a daily  
6 basis.

7 Q And so -- and part of their -- the commander's  
8 responsibilities is to keep you informed of what's going on,  
9 correct?

10 A Well, you would seem to think so, yes. That's part of  
11 their function is to keep me apprised of what the units are  
12 doing. As a matter of fact, I have a practice, every morning I  
13 have a five, ten minute briefing with every commander and every  
14 captain in the entire organization, whether they have something  
15 to report or not. Anything significant that happened the night  
16 before or the morning of the briefing, or whatever plans they  
17 have for the day or what they've got for tomorrow, they do  
18 brief me every morning.

19 Q Okay. So you're pretty much in the know about what's  
20 going on in your office, the Sheriff's Office, correct?

21 A That's not -- no. That's not really true. It's  
22 impossible. It is virtually impossible for any head of any law  
23 enforcement agency, especially one the size of ours -- and,  
24 again, we're the -- like the seventh or eighth largest  
25 sheriff's office in the State of Texas -- to know what

1 everybody is doing all the time. It is virtually impossible.  
2 It would be impossible even for the commanders to know what the  
3 people under them are doing. I mean, it's just -- it's not --  
4 that -- it's not expected, it's not logical. And I think any  
5 sheriff or any chief would sit here and tell you exactly the  
6 same thing, of any organization of that size --

7 Q And --

8 A -- whether you were law enforcement or not.

9 Q Okay. And maybe I should rephrase my question.

10 A All right.

11 Q You are in the know about everything of significance that  
12 goes on in your department, in your office, correct?

13 A I think a better way to answer -- or, I mean, to ask that  
14 question, I'm in the know of things that I am told. If I am  
15 not told of something and if I am not made aware of a  
16 situation, then I have absolutely no knowledge of it. But if I  
17 am briefed on the particulars of, for example, a home invasion  
18 that occurred last night, then I would know. But if the  
19 commander or the captain decide that they're not going to give  
20 me all the details, or maybe they don't know all the details  
21 either, and one of our lower rank and file people did  
22 something, then I would absolutely have absolutely no knowledge  
23 of that whatsoever. I mean, that'd be impossible. Again, this  
24 is not just parochial to law enforcement. This is any  
25 organization. I don't care what type of organization you're

1 talking about.

2 Q Okay. However, giving the example that you just gave me -

3 -

4 A Yeah.

5 Q -- if there was a home invasion that occurred and your

6 office responded to it --

7 A Yeah.

8 Q -- at the very least, you would know that your officers

9 responded to a home invasion, correct?

10 A If I was informed of it or if I watch it on the news, then

11 I would know.

12 Q Okay. So are you saying that -- or are you telling the

13 jury that you, like a lot of us, for the first time hear stuff

14 that goes on in your department on the news?

15 A As a matter of fact, it has happened.

16 Q Okay.

17 A You know, you have -- again, you have to understand that

18 on a yearly basis the Hidalgo County Sheriff's Office receives

19 on the average 130,000 calls of assistance a year. That's --

20 if you break it down, that's like maybe four to a minute -- or,

21 I'm sorry, one -- I'm sorry, one every four minutes. I think

22 it kind of breaks down that way. So it's impossible for me to

23 know about 130,000 things that have happened that year, unless

24 somebody tells me about it. And there has been times when I

25 hear it on the news first before I am briefed the next morning.

1 I mean, that -- because, you know, we have a very active news  
2 media contingency in Hidalgo County, and sometimes they make  
3 the crime scene before we do.

4 Q Okay.

5 A And we hear it on the news and then I'll get briefed on it  
6 the next morning.

7 Q Okay. But isn't it part of the commanders'  
8 responsibilities and duties that when you brief, that they  
9 inform you of this information. Not every single detail. I'm  
10 not talking about that. I'm just talking about the significant  
11 things that occur within the Sheriff's Office.

12 Q Well, you would seem to think so. Yes, logically you  
13 would seem to think that, yes, if something significant  
14 occurred the night prior to the briefing, then either a captain  
15 or a commander would brief me on it. I mean, yeah, that's the  
16 whole idea of the briefing --

17 Q Well --

18 A -- to keep me appraised (sic) of what is going on.

19 Q Okay. But you're confident that Joe Padilla, as one of  
20 your commanders, briefs you and informs you about anything of  
21 significance that occurs within your office that he knows  
22 about, correct?

23 A I would expect him and any other member of my command  
24 staff to brief me on anything that is significant that I should  
25 know about.

1 Q And I understand that you expect it. What I'm asking you  
2 is that you are confident that he actually does it.

3 A You can only have confidence in an individual until he  
4 lies to you. And I would have to say, yes, I have confidence  
5 that he was telling me everything that I should know. I mean,  
6 you can only trust somebody -- you have to have that trust in  
7 order to delegate. Because if you don't trust that person,  
8 regardless of what position he's in or whatever rank he's in,  
9 if you can't trust him, then you wouldn't put him there to  
10 start off with. So I would expect to be told of everything  
11 that is significant and that I should know about.

12 Q So what you're telling the jury is that you trust  
13 Commander Padilla, that he is telling you everything of  
14 significance that you need to know, correct?

15 A That's correct. I trust him to tell me what I need to  
16 know.

17 Q And you believe that up until this point, he has done  
18 that, correct?

19 A I have not caught him in any lies. He's -- his purview  
20 over those units are not as significant as, for example, the  
21 commander over the Law Enforcement Bureau. Law Enforcement  
22 Bureau takes care of things like murders, home invasions,  
23 robberies. Now, those guys give me complete briefings. For  
24 example, Joe Padilla, as commander of Support Service -- I'm  
25 sorry, going back to Special Services, he would show up in the

1 morning, say, "Sheriff, there's nothing significant to report  
2 this morning. Nothing happened last night within my bureau, so  
3 we're okay." I'd say, "All right. Next?" And I would go to  
4 the next one. I don't waste time with them.

5 Q Okay. And that also comes from the trust and competence  
6 that you have in him that he's telling you the truth, correct?

7 A I have to trust the commanders and the captains, that  
8 they're doing their job, until it is proven to me otherwise.

9 Q Very well. You're familiar with the common perception  
10 that Joe Padilla, Commander Joe Padilla, is a very hard man in  
11 running his -- well, responsibilities, in doing his  
12 responsibilities, correct?

13 A I don't understand what you're -- I guess you have to  
14 define what a "hard man" is.

15 Q Well, he's tough, he's mean, he's intimidating.

16 A Well, look, perceptions are like noses, you know,  
17 everybody's got one. Okay? If you are -- if you perceive him  
18 to be that way, well, I mean, that is your perception. I  
19 perceive Commander Padilla as somebody that will get the job  
20 done. Okay?

21 Q Okay.

22 A Now, if you perceive him as being an intimidating, mean  
23 person, well, that's your perception of him. I mean, he  
24 doesn't have a license or certificate to be mean or  
25 intimidating. That's just the way he is. Now, is that -- if

1 that is your perception of him.

2 Q Okay.

3 A All right.

4 Q And I don't have any knowledge of Mr. Padilla, so I don't  
5 have a perception --

6 A All right.

7 Q -- of him. But what I'm asking you is not about how you  
8 perceive Padilla. I'm asking you about the fact that you are  
9 aware that within your office, the deputies or -- that  
10 Commander Padilla has a reputation for being a mean commander,  
11 or a scary commander, or intimidating.

12 A Well, again, nobody has ever filed an official complaint  
13 or affidavit with the Internal Affairs to investigate Joe  
14 Padilla for being mean or intimidating. Okay? Now, does he  
15 have that perception by some members of the department? Maybe  
16 he does, but nobody officially has come to me and said, "I want  
17 to file a complaint for official oppression" or whatever you  
18 may want to call it "against Commander Padilla." He's got his,  
19 you know, his own personality. And that's his personality.

20 Q And so are you telling the jury that you have absolutely  
21 no knowledge that Commander Padilla is perceived by the  
22 deputies to be a mean, intimidating, fearful commander?

23 A No. I didn't say that.

24 Q Okay. Well then --

25 A No. What I said was --

1           **THE COURT:** Answer the question.

2           **THE WITNESS:** Yeah.

3           **THE COURT:** Answer the question.

4           **THE WITNESS:** What I said was that there are some  
5 deputies that may perceive him that way. And if I've heard  
6 this, you know, it's possible that some say, yeah, you know,  
7 "Joe Padilla, you know, really treated me bad or said  
8 something." Said, "Well, do you want to do something about  
9 it?" Says, "No." Yeah, the perception may be there by some  
10 deputies, but I don't know that you would call it a widespread  
11 perception of him. I don't know. I don't think so. He's  
12 authoritative and he gets the job done. That I can tell you.

13 **BY MS. GUTIERREZ:**

14 Q       Again, I'm going to ask you the question --

15 A       Okay.

16 Q       -- if you are telling the jury that you have no knowledge  
17 of Commander Padilla being a scary, intimidating, fearful  
18 commander?

19 A       Okay. Now we're going from mean to scary.

20 Q       Well --

21 A       Okay. I have a -- I have heard that Commander Padilla is  
22 an authoritative-type figure. I don't think everybody --  
23 anybody's described Joe Padilla as a mean, scary individual.  
24 Authoritative, yes, and that's what I'm telling the jury. He  
25 is an authoritative individual.



1 Q Isn't it also true that the -- it would be pretty -- that  
2 a deputy would be hesitant to come to the sheriff and tell the  
3 sheriff that their commander scares them?

4 A Well, yes. You could say that. But as every one of my  
5 employee knows, I have an open-door policy. And a lot of them  
6 take advantage of it. A lot of them do take advantage of my  
7 open-door policy, and they'll walk in and we'll talk about  
8 whatever they want to talk about. And one of the prerequisites  
9 on this, conditions is, that the first thing they've got to do  
10 is tell their supervisor they want to see me. But they don't  
11 have to tell the supervisor what they want to see me about.  
12 And the supervisor has no right to ask the employee, "Why do  
13 you want to see the Sheriff personally?" So anybody can walk  
14 into my office at any time they want, or set up an appointment,  
15 whichever way it can work out, and I can hear out whatever  
16 their concerns are. And a lot of them do take that position.

17 Q But if that were to occur, wouldn't you then have to  
18 follow up with the commander that they're complaining about?

19 A Absolutely.

20 Q And so then it would be made known to the commander?

21 A It's what?

22 Q It would be made known to the commander or supervisor,  
23 even though you just said that the supervisor can't ask that  
24 individual that question.

25 A Well, I guess it would -- you would have to take it on a

1 case-by-case basis, because everyone on his own merits. If an  
2 employee walked in my office and made an allegation against a -  
3 - any member of that -- of my department, especially a command  
4 staff member, and the allegation was the nature where it was a  
5 violation of one of our policies, then I think I would be  
6 obligated as the Sheriff and as the lead of that organization  
7 to bring in that commander or captain or whoever and  
8 investigate and take corrective action. I mean, that would be  
9 the right thing to do.

10 Q Okay. Mr. Trevino, you're also aware of the common  
11 knowledge around the Hidalgo County Sheriff's Office that Joe  
12 Padilla is your right-hand man, correct?

13 A That's a perception, but I don't have a right-hand man. I  
14 have four commanders and a chief of staff that help me run the  
15 department. I do not have a chief deputy, which would  
16 traditionally be your right-hand man. I can testify right now  
17 in all truthfulness that Joe Padilla is not my right-hand man.  
18 Joe Padilla takes care of Special Services, now Support  
19 Services.

20 Q Sheriff Trevino, who are your -- apart from Joe Padilla,  
21 who are your other three commanders?

22 A Commander John Montemayor, he is in charge of the Law  
23 Enforcement Bureau; Commander Daniel Garcia, he's in charge of  
24 our Detention Bureau; and Commander Gabriel Castaneda, in  
25 charge of our Financial Bureau; and, of course, Commander Joe

1 Padilla, now in charge of Support Bureau.

2 Q Isn't it true that Joe Padilla is in charge of anything  
3 having to do with your campaigning for Sheriff?

4 A No. That is not true.

5 Q So if there was an indication that Joe Padilla was  
6 representing that he was taking action with respect to  
7 campaigning, that would be false?

8 A Well, I think that needs a little bit of explanation. Our  
9 fundraising activities for the Sheriff's Office is done by  
10 committees. Every fundraiser has a committee chairperson. For  
11 example, the skeet shoot -- our annual skeet shoot, we have  
12 Commander Montemayor is in charge of the skeet shoots. He's  
13 the chairperson, he takes care of everything. I believe  
14 Commander Padilla was -- is in charge of a golf tournament.  
15 And Commander Garcia was in charge of some -- I think some  
16 barbecue ticket drive. See, our fundraisers are done by  
17 committees, and every committee has a chairperson. And it  
18 rotates. It's different. There's not one person that -- and  
19 runs my campaign. I am the campaign manager myself. There's  
20 not one person that does it, except I do not involve myself in  
21 any campaigning -- I mean, campaign fundraising. It's very,  
22 very limited that I do that. Only to my very close friends  
23 would I solicit donations from. But in general, it is handled  
24 by the chairperson and whoever is working with him.

25 Q Well, hold on. You do solicit campaign contributions from

1 everyone; isn't that correct?

2 A Not personally.

3 Q Well, right, but you do solicit --

4 A Well, absolutely. I mean, I have hundreds of people, and  
5 then that is evident by our campaign reports. I have hundreds  
6 of people that contribute to our campaign; and, for the most  
7 part, I have no idea who they are. A lot of people I have no  
8 idea who they are.

9 Q And the individuals that are charged with campaigning for  
10 you are representing you; isn't that correct?

11 A Oh, absolutely, yes.

12 Q Okay. And so you can't separate you're -- the man or the  
13 Sheriff, Lupe Trevino, from the campaigning?

14 A Well, of course not, because I'm the candidate.

15 Q Okay.

16 A I am the face of the candidacy, of the campaign.

17 Q And so it sounds to me like you're telling me that you  
18 delegate the campaigning to other people and then you --

19 A No.

20 Q You're not saying that?

21 A No.

22 Q Okay.

23 A I delegate the fundraising to other people. My job is to  
24 get out in the community, shake hands, get to know people, and  
25 deliver my message. We're talking about campaigning here.

1 Q Uh-huh.

2 A Okay? That's my job, to go out in the community, shake  
3 hands, meet people, deliver my message. I don't -- and I don't  
4 want to have to deal -- to be asking for money. I don't do  
5 that, except for my very close friends and contributors. That  
6 I do because they're very close friends of mine. But the  
7 committees take care of the fundraising.

8 Q Okay. And just to --

9 **THE COURT:** We're going to take a break here. I have  
10 a noon docket I need to call. All right. We're going to take  
11 our noon recess now. I'm going to give you an hour and a half.  
12 Since it's about ten until noon, if you could be back at 1:20,  
13 we'll get started at 1:20. It doesn't appear we're going to  
14 finish today because we still have the jury charge and closing  
15 arguments. So during this recess, reach out to your families  
16 or whatever, employers, and we need to consider whether we're  
17 going to proceed on Saturday or Monday. So I'm going to kind  
18 of -- I will consider -- ultimately I'll make the decision  
19 based on a lot of factors, but one of them would be what the  
20 jury's sentiment is. So think about that and we'll visit about  
21 it later this afternoon. All right. The jury is excused until  
22 1:20.

23 **THE CLERK:** All rise for the jury.

24 **(Jurors exit at 11:51 a.m.)**

25 **THE COURT:** All right. Is you all -- anything you

Trevino - Direct / By Ms. Gutierrez

22

1 all need to address with me at this time --

2 **MS. GUTIERREZ:** No.

3 **THE COURT:** -- before I recess you all? No. Okay.

4 And you're excused until 1:20 as well, Mr. Trevino. Be back  
5 at 1:20. All right. Then you're excused. I have a docket to  
6 call. I'm going to proceed with the Court's normal --

7 (A lunch recess was taken from 11:52 a.m. until 1:35 p.m.)

8 (Portion omitted from 1:35 p.m. to 1:37 p.m.)

9 **THE CLERK:** All rise for the jury.

10 (Jurors enter at 1:37 p.m.)

11 **THE COURT:** Good afternoon. Again, please be seated.  
12 You may be seated. All right. Ms. Gutierrez, you may resume  
13 your examination.

14 **DIRECT EXAMINATION (CONTINUED)**

15 **BY MS. GUTIERREZ:**

16 Q Sheriff Trevino, when we broke for lunch, you -- we were  
17 talking about the campaign. Do you recall that?

18 A (No audible response)

19 Q And I just want to understand that there were two types of  
20 fundraising that was going on there at the Hidalgo County  
21 Sheriff's Office. One has to do with fundraising for the  
22 county and the benefits that the citizens would receive, for  
23 example, toy drives and turkey drives, correct?

24 A No. That's wrong.

25 Q Okay.

1 A The only campaign fund drive was for my reelection. Okay?  
2 Now, if there's any other fundraising or any other initiatives  
3 that went toward items for toys or stuff like that, that's  
4 going -- has nothing to do with the campaign. That's two  
5 complete different functions, two complete -- one's political  
6 and the other one is work.

7 Q And maybe I misspoke. I meant --

8 A Okay.

9 Q -- fundraising events that were occurring were, one, for  
10 the county, which was for -- like toy drives and turkey drives  
11 and the events such as -- generating either money or items in  
12 order to distribute to the community?

13 A I was -- I have never have been made aware of any  
14 fundraising, I mean, cash, money, to donate to the community.  
15 Now, we have had donations of turkeys and toys and that sort of  
16 thing that we give out to the National Night Outs and to  
17 historic programs and regular toy drives for Christmas, like  
18 almost any other law enforcement agency. But to say that there  
19 is a fund, a money drive for that, I never -- I have no  
20 knowledge of that whatsoever.

21 Q Okay. And maybe you're confusing that -- put the two --  
22 my last two questions together. Let me clarify. I'm not  
23 necessarily talking about -- well, I'm talking about  
24 fundraising events. Would you agree that there were  
25 fundraising events for the purpose of distributing items to the

1 community, and then there were fundraising events that were,  
2 like you say, political in nature that were for the purpose of  
3 generating campaign funds?

4 A I think I answered that. I have no knowledge whatsoever  
5 of any fundraising, money raising events to raise money for  
6 distribution to the community when you buy whatever items you  
7 buy for. I'm not confused. I understand exactly what you're  
8 saying.

9 Q Okay.

10 A I just don't think you understand my answer.

11 Q Okay.

12 A All right. Now, there's a fundraising for campaigns.  
13 That's strictly off duty and away from work. That -- I guess  
14 the best way I can explain it.

15 Q Well, then, let's go fundraiser by fundraiser. This --  
16 the annual skeet shoot --

17 A Okay.

18 Q -- is that political in nature?

19 A Absolutely.

20 Q And so that was a political fundraiser in order to collect  
21 funds for your campaign, correct?

22 A That's correct.

23 Q And which commander was in charge of that?

24 A Commander John Montemayor.

25 Q And what were his responsibilities with respect to that



1 fundraising event?

2 A He's the chairman of the committee and he just took care  
3 of everything. I have no knowledge of the details of how those  
4 things are run because I don't mix myself up in any way with  
5 those type of fundraisers. I just don't do it. You know, like  
6 I said, I show up, I thank the people for donations, I maybe  
7 give awards for the skeet shoot, first, second, third place, I  
8 give some little speech, shake hands, and I'm there throughout  
9 the entire event. But I really don't have anything to do with  
10 the organization of the event. There's a committee that  
11 Commander John Montemayor puts together for that.

12 Q And you're not saying that you don't have a say in it, are  
13 you?

14 A Actually, that's what I'm saying. I mean, it's -- I don't  
15 involve myself with the -- I don't even know where to start  
16 organizing a skeet shoot.

17 Q Well --

18 A But John has that expertise. He's got that experience.  
19 He's done, I don't know, maybe two or three of them for me. So  
20 I just -- I lay back and they do everything. I just show up on  
21 the day of the event.

22 Q Okay. So are you telling the jury that you are completely  
23 in the dark about the annual skeet shoot up until the time and  
24 date that you have to show up?

25 A No, no, no, no. That's -- I didn't say that.

1 Q Well --

2 A Okay. What I'm saying is I do not participate in the  
3 organization of the event. They'll show me a flyer, says, "Do  
4 you approve the flyer?" You know, they get the wording right,  
5 the spelling, and the picture and the photo and all that.  
6 "Yeah, fine, that looks good." Then they'll ask me, "Do you  
7 approve where we're going to have it?" I said, "Yeah, that --  
8 the location is fine, too." Things like that. But for me to  
9 get into the everyday making decisions, that's up to that  
10 committee. And they have a -- they've got a, I don't know,  
11 seven, eight, ten-man committee that meets regularly and they  
12 organize that thing. It's a very large event.

13 Q So -- but you do have a say-so in some of the things that  
14 occur in preparation for these events?

15 A Well, yeah -- well, yes, of course, yeah.

16 Q And you do have a say-so as far as, "No, I don't like this  
17 idea," "I don't agree with that," or "Why don't you add this?"

18 A I guess you could say that. And that really just is  
19 restricted to the flyer, you know. I may not like the picture,  
20 I may not like the photo they're using, I may not like the  
21 design that they're using. But as far as how they arrange the  
22 stations and who's going to cook and who's not and who's -- I  
23 have nothing to do with that.

24 Q Okay. And you sell tickets for that event, don't you?

25 A The committee sells tickets, that's right.

1 Q And how much are those tickets?

2 A I have no idea. They -- it varies. Like all fundraisers,  
3 regardless of what jurisdictional level you're talking about,  
4 everything has different levels. And I don't know what the  
5 levels are. A team may cost so much, a sponsorship may cost so  
6 much. I have no idea what it is.

7 Q Have you ever seen a ticket to the skeet shoot?

8 A I'm sure that I have.

9 Q Okay. And what is the maximum amount for each  
10 (indiscernible)

11 A That's what I'm saying. I don't -- I couldn't tell you.  
12 I'd be guessing, and I don't want to guess. I just -- I don't  
13 know -- now I don't know if they are tickets really. I don't  
14 think they are tickets, coming to think of it. They're flyers,  
15 and you give the individual the flyer and then he fills out  
16 whatever he wants to donate. They're not -- I'm -- they're not  
17 tickets. They're actually flyers.

18 Q And you are made aware of who donates money to you,  
19 correct?

20 A Oh, absolutely, yeah.

21 (Pause)

22 Q And you said Mr. Montemayor, what are his duties within  
23 the committee in order to get these events (indiscernible).

24 A He's a chairperson and he runs the committee.

25 Q I would imagine that it takes a lot of his time in order

1 to get these events planned and executed, correct?

2 A I would imagine so, yeah. There's -- the entire committee  
3 spends a lot of time in organizing the events.

4 Q And how are -- how is the committee chosen?

5 A That is up to the commander. I don't choose committees.  
6 I have nothing to do with that.

7 Q And the committees are made up of other deputies or  
8 other --

9 A It could be citizens. It could be employees. I really  
10 don't know. You'd have to ask John Montemayor that.

11 Q Well, but if a citizen wanted to join one of those  
12 committees, I mean, what would they do in order to get  
13 considered for one of these committees?

14 A I guess ask.

15 Q Well, I'm asking you.

16 A Then they would have to ask.

17 Q What about --

18 A Ask, "Could I join a committee?" I mean, I don't know.  
19 They -- I don't think -- I don't know if that ever really  
20 happened. That -- I mean, you're asking me a question that it  
21 just -- doesn't make any sense to me. If you want to join  
22 something, obviously you ask. I mean, they could call. They  
23 could try and call me, maybe put something on my Facebook page.  
24 All they've got to do is -- I guess the best way to answer that  
25 is they have to communicate with us in some way or fashion and

1 say, "We would like to help."

2 Q Okay. Well, let's say that I wanted to join a committee,  
3 so I am asking you, Sheriff Trevino, how can I be considered  
4 for that committee?

5 A Okay. Then I would have you contact Commander Montemayor  
6 and you and him work it out.

7 Q And where would I contact Commander Montemayor?

8 A Well, I would probably give you his home number or his  
9 cell number, I guess.

10 Q How often does that committee meet?

11 A I have no idea.

12 Q How are you -- how is it then that you know whether these  
13 events are being planned timely?

14 A Because I trust him, and he's done two or three of them  
15 for me.

16 Q So you're not updated or briefed on --

17 A No, no, not on fundraisers. Like I said, I have very  
18 limited participation in those type of fundraisers. I don't  
19 have that expertise in how to set up that sort of thing. As a  
20 matter of fact, John has to consult with others on certain  
21 things. That just -- it -- that's the way it works. So I have  
22 no daily participation and he doesn't brief me on it either.  
23 He just takes care of it.

24 Q And you -- so you're -- but your expertise in that is  
25 being the politician, correct?

1 A I guess that's the best way of putting it, yeah.

2 Q And we are still talking here about your fundraiser for  
3 your campaign to be sheriff, correct?

4 A Well, my reelection campaigns, yeah.

5 Q And so far you've served how many terms?

6 A This is my third term.

7 Q And Commander Montemayor is tasked with this -- preparing  
8 these events during working hours for the county, correct?

9 A No. That's where you're absolutely wrong. Number one, he  
10 is not tasked with it. He volunteered. And number two, it is  
11 on his off duty time.

12 Q Does Commander Montemayor have regular hours that he works  
13 at the county?

14 A Well of course.

15 Q And what are those hours?

16 A I think his working hours are 8:00 to 4:00, 8:00 to 5:00  
17 maybe, regular daytime hours.

18 Q And so what you're saying is that this committee that he  
19 created and is chairman of and the work that has to be done in  
20 order to prepare the fundraiser, all of that is done at any  
21 time after 8:00 to 4:00 or 8:00 to 5:00; is that what you're  
22 saying?

23 A That is one of the rules that I have, that there will be  
24 absolutely no campaigning, no political work, during duty  
25 hours. And this particular committee, which I know a little

1 bit about -- not much -- I know that they meet at a hotel  
2 meeting room that Commander Montemayor friends owns and is a  
3 convenience, and they meet there after hours.

4 Q What hotel is that?

5 A I think -- I'm not sure. All I know is that's what he  
6 tells me. He said, "I meet at a hotel meeting room." I'd be  
7 guessing if I told you, and I don't want to guess.

8 Q Okay. And it sounds to me like at these committee  
9 meetings, because you have absolutely no knowledge about what's  
10 going on there, that anything could be happening that you're  
11 not aware of.

12 A I think that goes for anything, Ms. Gutierrez. If I am  
13 not there, and if I'm not participating, you're absolutely  
14 right. I mean, they could be having a heck of a party and me  
15 not know about it. You're right. This is off duty, on their  
16 own time. They're having this committee meeting trying to  
17 organize things. What they discuss, how they discuss it, who  
18 speaks, who doesn't, I have absolutely no idea because I have  
19 never attended any of those committee meetings.

20 Q Well, right. But they're meeting for the -- in their  
21 meeting and in their creation, they're representing Sheriff  
22 Lupe Trevino; isn't that true?

23 A Well, yeah, I guess -- if you put it that way, I would  
24 imagine so.

25 Q Okay. And so wouldn't it be important for you to know

1 what's going on in these meetings?

2 A No. Because I trust John Montemayor. Out of -- he  
3 volunteered to be the chairman of this committee, that he would  
4 take everything -- he would take care of everything that has to  
5 be taken care of, and I don't involve myself in it. That just  
6 the way the fundraising goes in our organization. Now, other  
7 politicians are very different.

8 Q If deputies are saying that they are made to work on your  
9 campaign during work hours --

10 A Yeah.

11 Q -- then would they be lying?

12 A Ms. Gutierrez, yes, they would be. I have two rules, and  
13 every one of my commanders and every captains and everybody  
14 knows this. Rule number one is you must first be a volunteer.  
15 If you do not want to volunteer for the campaign -- and that's  
16 fine with me -- then don't. It doesn't make any difference.  
17 Volunteer is number one. And number two, you will do it off  
18 duty. I will not allow anybody to campaign on duty or do  
19 anything on -- as a matter of fact, I fired an individual for  
20 that. We investigated an individual for trying to trick us and  
21 showing up in a campaign -- in a polling site and trying to  
22 manipulate the paperwork and then come back on us and say,  
23 "Look what you made me do." And that was a complete  
24 manipulation and he was dealt with.

25 Q So he wasn't necessarily fired because he went polling on



1 office hours; he was fired because he was accusing you -- your  
2 office of something -- of some wrongdoing, correct?

3 A I don't remember the details. I would have to review the  
4 internal affairs file. But the point that I'm trying to make  
5 here is not why he was fired. The point I'm trying to make is  
6 that he violated that rule and he got investigated for it. I  
7 will not allow any of my employees to do any campaign work  
8 during duty hours.

9 Q And my point, Sheriff Trevino, is that in your example,  
10 you didn't -- he wasn't punished because he violated your rule.  
11 He was punished because he accused your office of forcing him  
12 to do something that you are saying didn't happen, correct?

13 A I would have to review the file to get the exact charge.  
14 I don't remember.

15 Q Well, let's go with -- based on what you've just told me.  
16 You told me that this individual was fired because they tried  
17 to trick you --

18 A Right.

19 Q -- by going out and polling and then changing the  
20 paperwork and coming back to you to say that you forced him to  
21 do that, correct?

22 A Ms. Gutierrez, I don't remember -- again, I'm not going  
23 to testify by guessing. I did not review the file, and I have  
24 not seen that file in awhile. I just don't remember exactly  
25 why he was dismissed. But part of the investigation showed

1 that he was on duty working a poll and tried to manipulate the  
2 paperwork and was actually on the county clock while he was out  
3 there. That was a part of the investigation. Now, was he  
4 fired for that? I don't know. I don't remember. And I'm not  
5 going to speculate or lie or even try to attempt to guess. I  
6 would have to review the file and tell you exactly why that  
7 person was dismissed. But I do know that that was part of the  
8 investigation.

9 Q Very well. When -- in your office, the Sheriff's Office,  
10 you guys use what's called "comp time;" is that correct?

11 A That's right.

12 Q That is incorporated into the employees' time and how they  
13 earn pay and leave, correct?

14 A Not earn pay, no. Comp time -- the county does not pay  
15 overtime like municipalities do. So if they work over their  
16 hours they're required to work for their paycheck, then they  
17 are given time and a half of compertory (sic) time, which is  
18 called "comp time," time that they can take off like, for  
19 example, like a vacation or whatever -- time off.

20 Q And so if somebody works -- let's say they have a 40-hour  
21 work week, but in one particular week they work 60 hours --

22 A Right.

23 Q -- then they get paid for their 40 hours and 20 hours go  
24 towards comp time, correct?

25 A Twenty at time and a half.

1 Q Twenty at time and a half. And so that generates some  
2 comp time that they then can later use to say -- let's say,  
3 like you said, a vacation, and then they can take a vacation  
4 and use their comp time and still receive a paycheck, correct?

5 A Okay. That confused me there. I'm sorry. I --

6 Q Well --

7 A I mean, I'm sorry. I did not understand that at all.

8 Q Okay. You said with my example of somebody working 60  
9 hours in a 40-hour week --

10 A Okay.

11 Q -- they would get paid for 40 hours.

12 A Uh-huh.

13 Q And then 20 of those hours, they would get comp time at  
14 time and a half you said, correct?

15 A Right. So they -- that would have -- they would have 30  
16 hours.

17 Q Okay. So they would have 30 hours to be able to take a  
18 vacation if they wanted --

19 A To take off any time they wanted to do, whatever they  
20 wanted to do.

21 Q Okay. And those 30 hours was (sic) -- is at some point  
22 compensated, isn't it? I mean, they worked those hours.

23 A No, no, no. That is their pay. The time off is their  
24 pay. We don't pay overtime. We give them comp time, which  
25 means that if you go over, let's say, it is 40 hours, you get

1 to take that time off.

2 Q Well, right. But how is it then they're compensated for  
3 the 20 hours that they worked over in a 60-hour week?

4 A Ms. Gutierrez, I don't think you understand the concept.

5 Q I clearly --

6 **THE COURT:** No, no, I think, Sheriff Trevino, in your  
7 example, say somebody worked 60 hours in one week, FMLA  
8 requires time and a half anything over 40 hours. So the 20  
9 hours above 40 is actually, as you said, has to be compensated  
10 at 30 hours. So do they receive a paycheck at the end of that  
11 60-hour week for 70 hours?

12 **THE WITNESS:** No, your Honor.

13 **THE COURT:** They receive it for 40 hours, correct?

14 **THE WITNESS:** That's correct.

15 **THE COURT:** But the other 30 hours they worked and  
16 must be compensated for it, so they -- what you do is you say,  
17 "Don't come in for those 30 hours, but you still get your  
18 paycheck. We want you to work ten hours next week, and you get  
19 your 40-hour paycheck."

20 **THE WITNESS:** That --

21 **THE COURT:** So that in the two weeks together you've  
22 worked 40 hours one week and 40 hours the next week, rather  
23 than 60 -- they're paid 40 and 40 rather than 60 and 10; isn't  
24 that --

25 **THE WITNESS:** It could work that way. It's really

1 very simple.

2 **THE COURT:** But they're -- again, they're off during  
3 that time, those 30 hours --

4 **THE WITNESS:** Exactly.

5 **THE COURT:** -- they're -- can take a vacation, they  
6 can do whatever they want, but they're still paid for that,  
7 because by law they have to be paid.

8 **THE WITNESS:** They're paid in the sense they get the  
9 time off, right. Now, if -- let's -- I think our work week,  
10 I'm not really sure if it's 80 or 86 hours -- I'm sorry, not  
11 the work week, but the pay period.

12 **THE COURT:** Uh-huh.

13 **THE WITNESS:** It's either 80 or 86. I'm not really  
14 sure what it is. Once you've reached that limit, that anything  
15 that you worked over that is time and a half that you're given  
16 to be taken off like as vacation or time that you want to do  
17 whatever you want to do with it.

18 **THE COURT:** But it's not -- if they've actually  
19 worked the time, it's not -- they didn't -- it's not volunteer.  
20 I mean, they're compensated for it.

21 **THE WITNESS:** I guess, your Honor.

22 **THE COURT:** I mean, nobody --

23 **THE WITNESS:** I mean, I've never heard it --

24 **THE COURT:** You've never had a deputy actually --

25 **THE WITNESS:** -- that way, but I guess you're right,

1 your Honor.

2 **THE COURT:** -- work, physically work, any hour and  
3 not get compensated for it?

4 **THE WITNESS:** Right.

5 **THE COURT:** All right.

6 **THE WITNESS:** You're getting compensated with the  
7 time off is the best way I can explain it, your Honor.

8 **MR. STURGIS:** Wait, can I take it out of turn here?

9 **THE COURT:** If you want to try and clarify, I'll  
10 allow you briefly.

11 **MR. STURGIS:** Thank you.

12 **VOIR DIRE EXAMINATION**

13 **BY MR. STURGIS:**

14 Q Sheriff Trevino, I think what's being said then is there's  
15 the difference between having time off and not getting paid.  
16 Nobody wants to have time off and not get paid because they've  
17 got to pay their bills and stuff.

18 A Right.

19 Q So the 30 hours, they're actually getting paid; it's just  
20 the next paycheck. They're not having to work all 40 hours of  
21 next week to get paid the same the next paycheck, because there  
22 wouldn't be a benefit to someone to work overtime --

23 A Right.

24 Q -- and then turn around and say, "Well, you're off next  
25 week, but you're not getting paid for it."

1 A Right. I guess that's another way of explaining, right.

2 THE COURT: All right. So it is paid --

3 MS. GUTIERREZ: All right. So -- okay.

4 THE COURT: -- time off.

5 DIRECT EXAMINATION (RESUMED)

6 BY MS. GUTIERREZ:

7 Q So, Sheriff Trevino, the individual is getting a paycheck,  
8 even though they're taking time off because they've already  
9 worked those hours, correct?

10 A You're absolutely correct.

11 Q And so when someone is taking comp time, you consider them  
12 to be off duty, correct?

13 A That's correct.

14 Q Okay. And you're saying that you're okay with your  
15 employees campaigning for you while they're off duty, right?

16 A That's the only way they can campaign.

17 Q It's the only way they can --

18 A They've got to be off duty, correct.

19 Q So it's possible that an individual can be campaigning  
20 while off duty, but still receiving comp time, correct? Or  
21 payment for their comp time that they've already worked?

22 A You know, I don't know how to answer that. To be  
23 truthfully to -- with you, I don't know how to answer that,  
24 because the way Sturgis and Judge explained it, that is their  
25 time to do anything they want to do it with. Okay? Now, if

1 that time off -- I guess you could say that time off that's  
2 given to them, that's their pay. I guess it's the only way to  
3 explain it. Because they can do anything they want, you know,  
4 during that comp time, during that time off.

5 Q Right. But the time off isn't being given to them.  
6 They're taking it because they've already worked over time and  
7 they -- that money is stuck somewhere --

8 A Well, they can -- that can accumulate. They can  
9 accumulate comp time. For example, you can work -- like the  
10 example you gave, you can work 60 hours that week and you've  
11 got 20 plus ten, you've got 30, you can work 40 hours the  
12 following week, you pay -- you get your paycheck for, let's  
13 say, 80 hours, so now you've got 30 hours on the books that you  
14 can take at any time that you want. And I don't allow anybody  
15 to keep more than 80 hours, because if they were to separate  
16 from the organization, from the county, then we'd have to pay  
17 them. We'd have to give them a paycheck for that money. So I  
18 don't allow anybody to keep more than 80 hours of comp time.  
19 And they can take that 80 hours any time they want, like a --  
20 like vacation time.

21 Q Okay.

22 **THE COURT:** I guess it's sometimes called paid leave.  
23 I mean, you've earned the pay and you can take your time off.

24 **THE WITNESS:** Right, paid leave, yeah.

25 //



1 **BY MS. GUTIERREZ:**

2 Q Okay. Great. And so while they're -- if a person is --  
3 let's call it "paid leave" -- is taking that "paid leave,"  
4 they're considered to be off duty, correct?

5 A That's correct.

6 Q Okay. And then, at that point, they could campaign for  
7 you, correct?

8 A That's correct.

9 Q And so it is conceivable that a person could campaign for  
10 you while they are receiving a paycheck from the county,  
11 correct?

12 A No.

13 Q Well, I'm not saying that they're being paid for the time  
14 that they are campaigning for you. Do you understand the  
15 distinction?

16 A No. I don't understand, because that doesn't make any  
17 sense to me whatsoever.

18 Q Okay.

19 A It's like -- we get -- we pay so much for vacation --

20 **THE COURT:** No, let her re-ask the question, because  
21 it was an incongruent, I believe -- or *non sequitur*.

22 Q You've already testified that a person could take paid  
23 leave and be -- and qualify to campaign for you, correct?

24 A You're correct.

25 Q And when they're taking paid leave, they're not working,

1 but they're receiving a paycheck if they're using their paid  
2 leave, correct?

3 A That's correct.

4 Q And so it is possible that a person is on paid leave and  
5 at the same time campaigning for you?

6 A It'd be the same thing as taking vacation time, which is  
7 paid, and campaign, too.

8 Q And who was in charge of allowing an employee to work more  
9 than the 40 hours a week?

10 A Their immediate supervisors.

11 Q And in some cases, that would be your commanders, correct?

12 A In some cases, yes.

13 Q An employee can't generate comp time without the okay of  
14 their supervisor or commander, correct?

15 A No. That's not correct. For example, I have homicide  
16 investigators that -- they'll work 48, 72 hours straight, and  
17 they don't need the permission because that's something that  
18 needs to be done. The same thing with the tactical units. If  
19 they -- if the surveillance takes, I don't know, more than that  
20 time, they're going to do it. They don't need any immediate  
21 approval.

22 Q What about deputies?

23 A Well, a deputy, if he's involved in a crime scene, that  
24 would -- it would also apply. He may have to stay and guard  
25 the crime scene overnight. I mean, it just -- it's part of the

1 job. We don't -- we try to regulate it as much as we can, and  
2 the supervisors try to oversee it as much as we can, but as you  
3 well know in our job, we can't plan stuff. You know, it just  
4 happens.

5 Q And when you say, "We try to regulate it," what do you  
6 mean by that?

7 A By not going over the 80 hours, for example. If a deputy  
8 accumulates more than 80 hours, why then, you know, we stop him  
9 at that point, because we don't ever know what's going to  
10 happen, yeah.

11 Q And when you say 80 hours, you're talking about 80 hours  
12 in a two-week period, or one week?

13 A I'm talking about the pay period. It's either 80 or 86.  
14 I'm not really sure which it is. It's either 80 or 86, but  
15 it's during the pay period.

16 Q Okay. And that pay period is what, biweekly or --

17 A Pay period is -- yeah, biweekly.

18 Q And so what you're saying is that you -- is it 80 hour --  
19 the 80 -- that you don't like for them to go beyond the 80  
20 hours, or beyond the 86 hours?

21 A I don't want them to go beyond the 80 hours of accumulated  
22 comp time. Okay?

23 Q But what about during their hours that they're working as  
24 far as in a given week, if they need to work more than 40  
25 hours, it doesn't matter to you how much time they need to work

1 over the 40 hours, as long as it's required for what they're  
2 doing?

3 A In our business, we don't have a choice. We just have to  
4 do what we have to do at the time.

5 **THE COURT:** All right. Let's move along.

6 **BY MS. GUTIERREZ:**

7 Q And so it would be accurate that your commanders tell  
8 their deputies that they want no -- as little comp time  
9 accumulated as possible, correct?

10 A As long as they do not go above the 80 hours that we set  
11 in a -- as a ceiling. Now, there are some situations where  
12 I've got detention officers that have up to 200 hours  
13 accumulated. But then the detention facility is such a  
14 different animal from law enforcement that we don't have that  
15 choice. You know, I have to have -- by law, I have to have one  
16 guard -- or one detention officer for every 48 inmates. And  
17 sometimes people call in sick, vacation, comp time, so some of  
18 those guys have 200 hours. In that case, I don't have a  
19 choice. But we do have weekly or biweekly meetings with the  
20 command staff, and I bring them in one-by-one and say, "Look,  
21 you've got so many people with 'X' number of hours above the  
22 80, take care of it."

23 Q Isn't it true that Joe Padilla tells his deputies that  
24 they're to not acquire any comp time?

25 A I have no idea what Joe Padilla tells his deputies as far

1 as comp time is concerned. But that doesn't make any sense to  
2 me. The day -- you say that they -- Joe Padilla says that they  
3 cannot accumulate comp time?

4 Q Correct.

5 A Well, no. That's not possible. I have no idea what he  
6 said, but that wouldn't make any sense whatsoever.

7 Q You're saying that that would be inconsistent with your  
8 policy, correct?

9 A Well, being consistent with the nature of our business. I  
10 just cannot see a commander telling a deputy, "You will not  
11 accumulate comp time." I mean, if you have to, you have to.  
12 If you've got to do your job, you've got to do your job. So  
13 what you just said doesn't make any sense as far as our  
14 business is concerned -- our law enforcement business.

15 Q So if a deputy has testified that Joe Padilla tells them  
16 that they could not have any comp time, then what they're  
17 saying makes no sense to you, correct?

18 A No, no. You've got to understand, if he -- if Joe Padilla  
19 tells a deputy, "You cannot accumulate anymore comp time," then  
20 yes, I will say that is probably true, if we can show that that  
21 deputy had already accumulated 80 hours and already reached  
22 that ceiling. Okay?

23 Q And that's not what I'm asking you, Sheriff.

24 A Okay. Then I have no idea what you're asking, Ms.  
25 Gutierrez.

1 Q I'm stating that if a deputy has testified that Joe  
2 Padilla tells them they can have no accumulated comp time, that  
3 that would not make sense to you?

4 A That's right. Now they -- put in that context, you're  
5 right. That would not make sense to me.

6 Q And it would go against your policy, correct?

7 A Well, I don't know that I have a policy on that but, I  
8 mean, we have to do what we have to do. I guess -- it's not  
9 written. It's understood policy, verbal policy.

10 Q But what you're saying is that you wouldn't fire someone  
11 from a -- for accumulating 20 hours of comp time in a week if  
12 they needed to do their job, correct?

13 A Well, of course not.

14 Q And so no one would get -- what you're testifying and  
15 telling the jury is that no one would get in trouble for having  
16 comp time, correct?

17 A Well, right, correct.

18 Q Okay. So if -- don't you think you would know if Joe  
19 Padilla was telling his deputies that they are to accumulate  
20 zero comp time?

21 A The only way I would know that would be if Joe came and  
22 told me himself, which he did not, or one of the deputies -- or  
23 one of his employees came and complained to me. And I -- this  
24 is the first time I ever heard of this, that actually Joe  
25 Padilla or any of my commanders would say, "I want you at zero

1 hours." That just doesn't make sense. The 80-hour rule is  
2 understood by everybody.

3 Q But you said it's unspoken, so how is it that it's  
4 understood?

5 A Because everybody knows that no -- that all commanders in  
6 our staff meetings have been instructed by me that there is a  
7 ceiling of 80 hours of accumulated comp time. Now, if it -- if  
8 you have to go above it for emerging (sic) purposes or because  
9 you just have to be done, then you do it. But we try to cap it  
10 at 80.

11 Q But you already testified that you don't know what your  
12 commanders tell the deputies, so then there's no way that --  
13 for you to say that everybody knows that the 80-hour rule is  
14 what it is, correct?

15 A You have to trust your command staff until you -- until it  
16 has been proven that you cannot trust them. And if I give a  
17 directive to -- at one of our command staff meetings, and I  
18 walk away from it, I feel very confident that my command staff  
19 will then relay that directive to his captain, the captains to  
20 the lieutenant, the lieutenant to the sergeant, the sergeant to  
21 the lieutenants (sic) or detention officers.

22 Q But you agree with me that you can't tell the jury that  
23 everybody has been told based on your assumption that your  
24 commanders will tell them, right?

25 A I have to trust them, and I have to assume that they

1 carried out my directive.

2 Q Isn't it true that Joe Padilla has the -- his deputies  
3 generate comp time only when it's reelection campaign time for  
4 you?

5 A Ms. Gutierrez, I have no idea what you're talking about.  
6 I have never heard that there is, for example, a drive to  
7 accumulate comp time so that we can use during election time.  
8 I mean, that's -- certainly that's not anybody's policy. And  
9 if anybody is saying that then, you know, I guess they're going  
10 to have to show it or prove it somehow. But I have -- there is  
11 no official drive or unofficial drive to accumulate comp time  
12 to use during the campaign. There's no such thing.

13 Q Okay. So you're saying that that's an impossibility,  
14 correct?

15 A No. I didn't say that. You said impossibility. It's not  
16 an impossibility. It is within the realm of something that is  
17 possible. What I'm saying is I have never heard that  
18 allegation or accusation, that commanders are forcing employees  
19 to work extra so they can accumulate their 80 hours where they  
20 can use during the campaign. That is absolutely not true. I  
21 have no knowledge of that whatsoever.

22 Q Okay. The fact that you've never heard an accusation or  
23 an allegation doesn't mean that it's not happening, correct?

24 A Well, that's obvious, of course. There's a lot of things  
25 that have occurred and have happened that I've had absolutely



1 no knowledge of. That's correct.

2 Q Like what, sir?

3 A There's a lot of things that can happen -- that have  
4 happened, I would imagine. I mean, if you want to ask me  
5 specific questions, ask me. But there's a lot of things that  
6 can happen that I don't know about unless I am told or unless I  
7 see it.

8 Q Well, you just said that there's a lot of things that have  
9 happened --

10 A Well, I misspoke.

11 Q Okay.

12 A Anything can happen; and if nobody tells me about it and  
13 if I don't see it, then I don't know it no more than you would,  
14 for example.

15 Q Well, Sheriff Trevino, you're aware that I subpoenaed Joe  
16 Padilla to testify in this trial, right?

17 A Yes, ma'am.

18 Q Okay. And you're also aware that he invoked his Fifth  
19 Amendment right against self-incrimination, correct?

20 A Yes, ma'am.

21 Q And as the Sheriff, are you investigating that?

22 A Investigating that he took the Fifth?

23 Q Yes.

24 A We have a policy --

25 Q It's a yes or no question, Sheriff. Are you investigating

1 that?

2 A Well, there -- we have a policy --

3 **THE WITNESS:** You want it to be yes or no, judge?

4 **THE COURT:** If you can answer yes or no. Or --

5 **THE WITNESS:** I can't.

6 **THE COURT:** I mean --

7 **THE WITNESS:** To be -- give justice to that answer, I  
8 can't do that.

9 **THE COURT:** Well, yes or no, and then you can  
10 explain --

11 **THE WITNESS:** Okay.

12 **THE COURT:** -- your yes or no.

13 **THE WITNESS:** No. Can I explain, Judge?

14 **THE COURT:** You may --

15 **THE WITNESS:** All right.

16 **THE COURT:** -- explain your --

17 **THE WITNESS:** We have a policy that we will not  
18 headhunt deputies or employees. We don't headhunt anybody.  
19 Now, if Joe Padilla is under investigation for something by the  
20 Federal government, I would expect the Federal government to  
21 give me some details, like they have in other cases, and say,  
22 "Your employee is under investigation for this allegations."  
23 Then that would be enough for me to open up an internal affairs  
24 investigation and do whatever I have to do. But up to this  
25 point, nobody's told me that Joe Padilla is under criminal

1 investigation by the Federal government or by anybody else.

2 Now, you get me an FBI agent or a U. S. attorney say, "Joe  
3 Padilla is under investigation for this allegations," that is  
4 enough for me now to open up a criminal -- I mean a internal  
5 affairs investigation and do whatever I have to do.

6 **BY MS. GUTIERREZ:**

7 Q You didn't read his public filing that indicated that he  
8 was invoking his Fifth Amendment right, which indicated that  
9 they were seeking an indictment on him?

10 A I did not read that, no.

11 Q Okay. And Mr. Padilla didn't tell you that?

12 A No.

13 Q Did you ask him?

14 A No. He --

15 Q So you --

16 A He told me that he took the Fifth. I said, "Joe, that is  
17 your constitutional right and nobody can take that away from  
18 you."

19 Q Okay. But --

20 A Did anybody -- you know, give me somebody that can give me  
21 something that I can initiate an investigation and I will.

22 Q Well, I understand that. But --

23 A Yeah.

24 Q -- you could also tell Mr. Padilla what -- why is it that  
25 you pled the Fifth?

1 A And he -- all he's going to tell me is I pled the Fifth  
2 because I didn't want to incriminate myself, and that would be  
3 it. Same thing he did here.

4 Q Okay. And you're not saying that that's what he said  
5 because you didn't ask him, correct?

6 A Right.

7 Q Okay. And so you knew that he pled the Fifth --

8 A Right.

9 Q -- however, you didn't bother to inquire about it, even  
10 though he's in your commander (sic).

11 A Ms. Gutierrez, again, we don't headhunt. Okay? Now, the  
12 only thing I could possibly do is go to the U. S. Attorney's  
13 office or go to the FBI and ask them. And I know what the  
14 standard answer is going to be. "We cannot reveal any open  
15 investigation that we have." Now, if they want to volunteer,  
16 like they have in the past, like they have in other  
17 investigations, that they have one of my employees under  
18 investigation and this is what the allegations are, then I will  
19 take action, but not until somebody is willing to put it in  
20 writing or give me some sort of verbal confirmation. I don't  
21 need a written statement from the U. S. Attorney's Office or  
22 from the FBI. All I need for them to call and tell me is there  
23 is this criminal allegations that we believe your commander  
24 committed. That's all I need to start an investigation. And  
25 that's what I'm waiting for.

1 Q But, you're the Sheriff. Don't you think it's important  
2 for you to know if your commanders -- not just your employees,  
3 but your commanders are in some way engaged in criminal  
4 activity or even alleged to be engaged in criminal activity?

5 A You're absolutely correct, and I --

6 Q But you don't --

7 A -- could not agree with you more.

8 Q But you don't ask him.

9 A But I did. What I did say -- do this -- I got all --  
10 everybody together, said, "If anybody in this room, if any of  
11 you all have broken the law, have done anything that you should  
12 not have done, any criminal allegation against you, I need to  
13 know them and I need to know them now." Now, obviously nobody  
14 raised their hand and said, "Yes, I did so and so and so and  
15 so." Of course they're not. But until somebody gives me  
16 something -- it doesn't have to be in writing either. Just a  
17 phone call from an FBI agent or the U. S. Attorney's office and  
18 say, "We have targeted Joe Padilla and we believe that this are  
19 -- what he committed, these are the allegations," then I will  
20 take action. But we did talk about it.

21 Q Well, what you're telling the jury is that you talked to  
22 all of your employees at the same time is what you said.

23 A Well, and I've done this all throughout. And my  
24 instructions are very clear to them, individually and as a  
25 group. If you violate the law, then you're not worthy of

1 working for us, and we will take action. And I've told that to  
2 everybody --

3 Q But, Sheriff --

4 A -- including Joe Padilla.

5 Q But Sheriff, you didn't take Joe Padilla aside after  
6 yesterday when he pled the Fifth and tell him -- and sit him  
7 and down and say, "Okay, what is this about and what -- why is  
8 it that you pled the Fifth?"

9 A As a matter of fact I did.

10 Q Oh, you did do that?

11 A Yes. I did do that.

12 Q What --

13 A He ran by the office for five minutes and he said,  
14 "Sheriff, I have absolutely no idea what they're talking about.  
15 I didn't do anything." And I said, "Joe, if you broke the law,  
16 then you could be dealt with. You know what's going to happen  
17 to you and you know how I'm going to react." And his answer  
18 was, "I know what you're going to do. You're going to fire me,  
19 investigate me, and arrest me." I said, "That's exactly what  
20 I'm going to do." But to this point, nobody has given me any  
21 evidence whatsoever that Joe Padilla has broken any laws. Now,  
22 if he is a target of a Federal investigation, that's all I need  
23 is a phone call from them and say, "We can't give you all the  
24 details, but this is what I can give you," and then we can take  
25 action, but not until then.

1 Q And so you're not aware that Joe Padilla has interviewed  
2 with the Government on two occasions regarding criminal  
3 activity?

4 A Yes. I am aware of it.

5 Q Okay. So then you are aware of the fact that there's some  
6 sort of investigation going on here?

7 A I -- that's obvious. What I'm not aware of is the  
8 details. And I have no idea what he's being investigated for.

9 Q Well, wouldn't the best person to ask be -- or to get that  
10 information, those details probably be --

11 A It'd be Joe Padilla.

12 Q Exactly.

13 A That's right. And obviously he -- I already answered  
14 that. I've already answered that. He said, "I have no idea  
15 what they're talking about, Sheriff. I haven't done -- I  
16 haven't broken any laws. I haven't done anything." I said,  
17 "Fine."

18 Q Well, but isn't it accurate that if he's met with the  
19 Government on two occasions, he would have some information  
20 about what it is they're alleging that he may have committed?

21 A I think he was instructed by the U. S. Attorney's office  
22 not to discuss anything that he was interviewed on.

23 Q But you're the Sheriff. Certainly he can discuss --

24 A Believe me. The Sheriff --

25 Q -- it with you.

1 A -- does not trump U. S. Attorney's Office. If the U. S.  
2 Attorney tells one of my employees, "You will not discuss what  
3 we are talking about with anybody," that means nobody.

4 Q But you just testified that the U. S. Attorney's Office  
5 cooperates with you when there is one of your employees who's  
6 being investigated. Didn't you just testify to that?

7 A In some cases they have, that's right.

8 Q Okay. So couldn't you inquire whether you have permission  
9 to find out this information from the Government?

10 A This just happened yesterday and I have not had a chance  
11 to call the U. S. Attorney's Office. But then the FBI and the  
12 U. S. Attorney's Office have had a lot of opportunities to be  
13 able to call me and say, "We have your commander under  
14 investigation and these are the allegations."

15 Q But you had time yesterday to get on the radio and do an  
16 interview, right?

17 A That's right.

18 Q So you could have called the Government if you were  
19 interested enough, right?

20 A That's not true. I mean, I am interested.

21 Q But you didn't call (indiscernible)

22 A But I didn't do it.

23 Q Okay. And so at this time, Joe Padilla is still employed  
24 with the sheriff's county -- with the Hidalgo County Sheriff's  
25 Office?



1 A That's right. He is.

2 Q Okay. And he will remain employed with the Hidalgo County  
3 Sheriff's Office until if and when the Government decides to  
4 inform you of something?

5 A If and when.

6 Q And the fact that I'm informing you now about this -- the  
7 fact that Padilla has interviewed with the Government, that  
8 he's pled the Fifth, that to you is not enough to do something  
9 more about the fact that you may have an employee, a commander,  
10 working for you?

11 A Ms. Gutierrez, you're not telling me anything I didn't  
12 know this morning. Okay? And certainly, you're a defense  
13 attorney. You don't work for the U. S. Attorney's Office. If  
14 the U. S. Attorney's Office wants to call me this afternoon or  
15 tomorrow morning, or whenever they please, if they want to do  
16 it, or the FBI wants to call and say they are doing it, then  
17 that's fine. And I will take their -- whatever they've got to  
18 give me and then I can proceed from there. And I cannot compel  
19 Joe Padilla to tell me anything that he doesn't want to tell  
20 me. I can't compel anybody, no more than anybody else can.  
21 Obviously he took the Fifth.

22 Q But you're aware that the U. S. Government has stated  
23 their intent to seek an indictment against him, aren't you?

24 A No. I was not aware of that.

25 Q So Padilla didn't tell you that --

1 A No.

2 Q -- even though he put it in a document that he filed  
3 publically.

4 A I have not seen it. I have no idea what document you're  
5 talking about.

6 Q Well, I'm not asking you if you have an idea about a  
7 document. I'm saying he has not told you that, correct?

8 A No, he has not.

9 Q And you're saying that as Sheriff, you are not aware of  
10 this either?

11 A No. Absolutely not.

12 Q Do you know a Charlie -- an investigator, Charlie Vela, at  
13 the D. A.'s office?

14 A Yes, I do.

15 Q And you're also aware that I also subpoenaed him to  
16 testify in this case, and he also pled the Fifth, correct?

17 A Yes, I do.

18 Q And you're aware that Charlie Vela was terminated from his  
19 employment after pleading the Fifth, aren't you?

20 A Yes, I am.

21 Q And so, however, you do not choose to take -- to follow in  
22 Rene Guerra's footsteps and take care of the matter in that  
23 way. Correct?

24 A There's a big difference in the two situations. The way I  
25 understand it, Charlie Vela was accused of several crimes --

1 openly, several crimes -- that he participated in drug  
2 conspiracies by several witnesses. Rene Guerra doesn't have a  
3 choice. He has to fire him, because it was in open court those  
4 allegations were made and he took the Fifth. Now, as far as I  
5 know -- and I have not really read all the twists and stayed on  
6 top of this trial -- but as far as I know, I don't know that  
7 anybody has alleged that Joe Padilla committed any felonies.  
8 As a matter of fact, I understand that the State's two  
9 witnesses both said that Joe Padilla had absolutely no  
10 knowledge whatsoever of what J.P. Flores was doing, he had no  
11 knowledge what allegedly Jorge Garza was doing, and that he  
12 never took any money whatsoever from the main drug dealer,  
13 Deguerras (sic). That's what I heard as far as -- I mean, he  
14 got absolved as far as I know. Now, if the Government knows  
15 something else, or if you know something else and you're  
16 willing to share it with me, then do so and I will conduct an  
17 investigation and do the proper thing. That's the difference  
18 between Charlie Vela's situation and Rene's and my situation  
19 with Joe.

20 Q What -- where did you find out this information about the  
21 testimony that you just recited?

22 A Regarding Charlie Vela?

23 Q No. Regarding the testimony that you're saying absolved  
24 Padilla.

25 A I believe I read it in the paper, I think. You know, or

1 it was tweeted or something like -- somebody told me. Somebody  
2 called to tell me.

3 Q So either somebody told you or you read it in the paper --

4 A Yeah.

5 Q -- or in tweets?

6 A Yeah. I think somebody called to tell me that, yeah.

7 Q So then you are keeping up with the evidence that's coming  
8 out of this trial, correct?

9 A Well, I'm not completely oblivious to it, but it's not --  
10 this is not the focus of my life. I mean, I have a very large  
11 organization to run. This is very important to me, but --

12 Q Well, yes, Sheriff, but --

13 A -- it's not my -- it's not the center of my focus right  
14 now, you know.

15 Q But Sheriff, it sounds like you don't know anything about  
16 what's going on in your -- in the Sheriff's Office based on  
17 what you're telling me. I'm asking you questions about  
18 different things that are going on and you say, "I don't know.  
19 I don't know. I leave that to my commanders. I leave that to  
20 the people I delegate it to."

21 A That's because, Ms. Gutierrez, you've never worked in an  
22 800 -- almost 800-person organization. You know, there's a lot  
23 of delegation, there's a lot of things that occur that I don't  
24 know about. You know, I mean, that's -- I don't know if you've  
25 worked in an organization that large before but, you know, the

1   guy at the top really only knows what he sees and what he's  
2   told.

3   Q     And so nobody told you that Guerra, Senior, the drug  
4   dealer, donated anywhere about between around \$10,000 for -- to  
5   purchase a boat for you?

6   A     You know, that -- when I heard that, I thought it was  
7   absurd. I -- that is the first time I ever heard of it.

8   Q     Well, but did you hear that the testimony was that it made  
9   its way to Padilla, and that was J.P.'s testimony?

10   A     You know, I'm not sure about that. I don't know that I  
11   was told that it made its way to Padilla. That I do not know.  
12   Nobody told me that. I heard -- what interested me was this  
13   boat thing, which is a complete lie as far as I was concerned.  
14   That never occurred, to my knowledge. Obviously, I was not  
15   involved in that.

16   Q     No one told you that the testimony that came from J.P.  
17   Flores was that Joe Padilla asked J.P. Flores to ask Guerra,  
18   Senior for a donation because you wanted a new boat?

19   A     I'm not really sure if I was told that way. I'm not sure.  
20   I don't remember. I do remember the boat thing, but -- because  
21   it -- that's what interested me. I said, "Where'd that come  
22   from? That was a complete lie." If anybody did that, they  
23   were using my name to solicit funds and then keeping them.  
24   Now, whether J.P. got the money and gave it to Padilla and  
25   that's what J.P. has testified to then, then I guess you're

1 going to have to believe J.P. I have no idea.

2 Q Well, right. But we're talking about Padilla right now.

3 So --

4 A Okay.

5 Q -- isn't -- doesn't it interest you the fact that the  
6 testimony that came out is that Padilla received or asked for -  
7 - solicited money from a drug dealer on your behalf?

8 A Well, of course it interests me, yeah.

9 Q And doesn't it interest you that Padilla received money  
10 from a drug dealer on your behalf?

11 A Well, I don't know that he did.

12 Q But you haven't asked about it either.

13 A Who could I ask but Padilla, and --

14 Q Exactly.

15 A -- I have not seen him, you know.

16 Q Well, you said that you spoke to him since yesterday.

17 A Well, yes. But the boat situation, I don't believe, came  
18 up, because it was a nonissue because I know it never happened.

19 Q Well, you may know that it didn't happen on your end --

20 A Yeah.

21 Q -- but that doesn't mean you know it didn't happen on  
22 Padilla's end. But you didn't ask him, correct?

23 A That's correct.

24 Q Do you own a boat, Mr. Trevino?

25 A Yes, I do.

1 Q Okay. How many boats do you own?

2 A Just one.

3 Q And what kind of boat do you own?

4 A Oh, God, it's a --

5 **THE COURT:** Just generally.

6 **THE WITNESS:** Twenty-one --

7 **THE COURT:** Generally, just generally.

8 **THE WITNESS:** It's a fishing boat.

9 **THE COURT:** A fishing boat.

10 **BY MS. GUTIERREZ:**

11 Q And when did you purchase that boat?

12 A About a year and a half ago, I believe.

13 Q How much did it cost you?

14 A Let me see, the boat itself was 15 and the engine was 11.  
15 I think I paid like 26 total.

16 **THE COURT:** And a trailer?

17 **THE WITNESS:** And -- including the trailer, yeah.

18 **BY MS. GUTIERREZ:**

19 Q Twenty-six total?

20 A Yeah. I believe it was 26.

21 Q And where did you purchase it from?

22 A The boat was purchased -- boat and trailer were purchased  
23 from Triple J Boat Sales in Elsa, and the motor was purchased  
24 at Dargel there in Donna.

25 Q And who made the purchase? Was that you personally?

1 A Oh, yeah, absolutely, yeah.

2 Q How did you pay for that?

3 A I paid him with a check.

4 Q Was that a personal check?

5 A My personal check, yeah.

6 Q Is that the only boat you've owned?

7 A No. I owned one before that that I've had for about nine  
8 years, and I sold that boat while I was trying to get this one  
9 -- while I was trying to buy this one.

10 Q Did anybody tell you that there was testimony that came  
11 from J.P. Flores that Padilla was selling law enforcement-  
12 sensitive information to the drug dealer, Guerra, Senior?

13 A I think I read that in the paper.

14 Q But you didn't ask Padilla about that either, did you?

15 A Yes. I did.

16 Q Okay. And that was not enough for you to begin an  
17 investigation?

18 A He denied and he said, "That's absolutely not true. I  
19 never had anything to do with those people." I guess --

20 Q So he -- I'm sorry. Go ahead.

21 **THE COURT:** So did you find it odd that Mr. Padilla  
22 would discuss this with you but refuse to discuss it in court,  
23 instead invoking his Fifth Amendment?

24 **THE WITNESS:** I guess it would be considered odd,  
25 yes. But it was a general question. I said, "Joe, what did



1 you do? Is this true what has been alleged against you?" And  
2 he said, "No. It is not true."

3 **THE COURT:** I mean, you would agree that one of the  
4 cornerstones of a civilized society is a honest police force?

5 **THE WITNESS:** Absolutely.

6 **THE COURT:** I mean, that is a cornerstone.

7 **THE WITNESS:** That's right.

8 **THE COURT:** Are you not concerned that Mr. Padilla  
9 who, when confronted with the prospect of having to answer  
10 questions about what he did as an officer, decided to instead  
11 invoke his right to remain silent because his answers might  
12 tend to incriminate him?

13 **THE WITNESS:** Yes, sir. I -- absolutely. There's no  
14 doubt that I'm concerned about that. But my problem here is, I  
15 mean, how can I argue with his -- with him invoking his  
16 constitutional rights? See, that's the problem I have. And to  
17 take disciplinary action against him for taking the Fifth would  
18 be taking disciplinary action against him for invoking his  
19 constitutional rights. And I can't see that. Now, if we had -  
20 - if I had something to work with, then that'd be -- this would  
21 be a complete different story.

22 **BY MS. GUTIERREZ:**

23 Q It sounds to me like what you're saying is that unless  
24 Padilla is arrested by other law enforcement, you're not going  
25 to do anything.

1 A No. That's not true. I didn't say that. All I have to  
2 have is some sort of call from the FBI, U. S. Attorney's  
3 Office, and say, "This man is under criminal investigation for  
4 this type of allegations." Then we will call him in. And at  
5 that point, he will be compelled to answer our questions; and,  
6 if he doesn't, then that's called insubordination, and he will  
7 be fired.

8 Q Well, don't you think that Padilla, having been  
9 interviewed by the Government at least twice --

10 A Right.

11 Q -- makes -- it implies that he is a target of the  
12 investigation?

13 A And you're right. You're absolutely right about that.  
14 And I asked him, and he said, "I was -- I'm not allowed to  
15 speak about what I was interviewed about."

16 Q Well, right. But right now you said unless the FBI or  
17 someone came to --

18 A Right.

19 Q -- me and told me he was a target of the investigation,  
20 then at that point I would compel him to answer my questions.

21 A Right.

22 Q So, you're saying yes, that is enough, you already know  
23 that he was interviewed twice, and yes, that implies that he's  
24 a target of the investigation, however, you didn't compel him  
25 to answer your questions. You just asked him and you said,

1 "Okay."

2 A I can't, Ms. Gutierrez, because the U. S. Attorney's  
3 Office told him, "You will not discuss it." And how -- what am  
4 I going to do? Go against the U. S. Attorney's Office and say,  
5 "Because the U. S. Attorney told you not to discuss the  
6 contents of our (sic) interview, I'm going to fire you?"

7 Q So then why bother telling me that you would have --  
8 compel him to answer the question?

9 A Because if the U. S. Attorney or the FBI called to tell me  
10 these are the criminal allegations against him, then I would  
11 have something to work with.

12 Q So are -- the distinction is that you don't know the  
13 details? That's the only distinction. So if the FBI would  
14 come and tell you the details, at that point you would compel  
15 him to answer questions?

16 A I would -- exactly, because they've revealed their case,  
17 some of it -- I don't need details. I just need the general  
18 allegations that they have so I can call him in and say,  
19 "You're under investigation, these are the allegations. Now,  
20 I'm compelling you to tell us the truth." And if he refuses,  
21 then that's insubordination and he will be terminated. But  
22 then he's going to refuse because that record's going to be  
23 open to whoever wants it because of the Open Record Act. I  
24 would have to release that. So he's going to refuse.

25 Q So no matter what, Padilla -- you're not -- you're -- you

1 believe that Padilla's in a position where he never ever has to  
2 -- he doesn't at this point have to reveal any information to  
3 you?

4 A Not unless I compel him if I have evidence that he has  
5 broken the law. Look, I'm in a very difficult position with my  
6 employees in that particular situation, you know -- very  
7 difficult situation for me. And my concern is that I certainly  
8 don't want to violate his civil rights by firing him because he  
9 invoked his constitutional right to the Fifth Amendment. I  
10 can't do that. I mean, I've got enough lawsuits already. I  
11 can't do that. All right. Now, if the Government gave me a  
12 call and said, "Look, I've got this -- we've got into this  
13 thing, these are the allegations, these are what we intend to  
14 indict him on" -- it doesn't even have to be that much detail -  
15 - then yes, we will take action. But it puts me in a very  
16 difficult situation because he has not been charged with  
17 anything, and there's been no open allegations made against  
18 him, and he took the Fifth. And for me to take action against  
19 him for invoke (sic) his constitutional rights, I think that  
20 would put us in a very sticky situation.

21 Q Well -- and I understand that --

22 A Okay.

23 Q -- Sheriff, but what I'm having a problem with is the fact  
24 that you are the head of a law enforcement agency where you,  
25 yourself, can charge somebody with a criminal action.

1 A Right.

2 Q You can charge someone with wrongdoing, committing crimes,  
3 doing something illegal.

4 A Right.

5 Q Okay. And it sounds to me like in this case -- and I'm  
6 not sure if it's because it's Padilla, but in this case you're  
7 throwing that burden, or that responsibility, to the U. S.  
8 Attorney's Office when that's something that you, too, can do.  
9 There's no rule that you can't have an investigation ongoing at  
10 the same time that the U. S. Attorney's Office has an  
11 investigation, correct?

12 A You're absolutely right. You are. You're absolutely  
13 right. But the question remains, what am I investigating him  
14 for? For taking the Fifth Amendment?

15 Q No. For hear -- for the things that are coming out, under  
16 oath, by individuals that are saying that Padilla has committed  
17 illegal acts.

18 A Are those people willing to go to my office and sign an  
19 affidavit and a complaint for me to take action? And that's  
20 what it takes.

21 Q So you're not --

22 A That's exactly what it takes.

23 Q But if I were to call the Sheriff's Office because there  
24 was a burglary in my house, you're not going to need an  
25 affidavit before you start an investigation.

1 A No, of course not.

2 Q Okay. So --

3 A That's -- you're comparing apples to oranges. But I will  
4 tell you something else, and I think we need to understand  
5 this.

6 Q Well, hold on --

7 A That this --

8 Q Hold on.

9 A -- trial is not over yet.

10 **THE COURT:** Hold on. Let -- Ms. Gutierrez gets to  
11 ask the questions.

12 **BY MS. GUTIERREZ:**

13 Q Hold on. Let's just clarify this issue, because I don't  
14 believe I'm comparing apples to oranges. I believe it's  
15 exactly -- we're talking about the same -- exact same issue.  
16 Okay? Your office can conduct an investigation at the same  
17 time that the U. S. Attorney's Office is conducting an  
18 investigation of Padilla, but you refuse to; isn't that true?

19 A No. It's not true.

20 Q But you're not doing it.

21 A This is why I'm not doing it, because this trial is not  
22 over with yet. Once this trial is over with -- is over and all  
23 the witnesses has (sic) come forth and given whatever they've  
24 got to give, then I can call the U. S. Attorney's Office and  
25 say, "Okay. The trial is over with, it's dealt with, everybody

1 testified. What can you give me to work with?"

2 Q But you --

3 A But not until then. And, yeah, remember, you know, we've  
4 had several witnesses, people that you've testified (sic) -- I  
5 mean that you've subpoenaed, that have absolved him of any  
6 criminal acts. So --

7 **THE COURT:** Who are you referring to?

8 **THE WITNESS:** I mean a -- I'm sorry?

9 **THE COURT:** Who are you referring to --

10 **THE WITNESS:** I believe --

11 **THE COURT:** -- that absolved him of --

12 **THE WITNESS:** I believe J.P. Flores said that he had  
13 never met the Guerras, never took money from the Guerras, and  
14 that he -- and that Padilla had absolutely no knowledge of  
15 J.P.'s actions.

16 **THE COURT:** Would it surprise you that that is the  
17 opposite of what he said?

18 **THE WITNESS:** Yes. It would surprise me. Because,  
19 see -- and that's -- I don't know all the facts. And until  
20 everything is over with, when this trial is over with, and  
21 everybody has testified, and I can get a complete record and I  
22 can talk to the AUSA's office, then we'll do something. But I  
23 can't now. I am not going to jump the gun and take action  
24 against him because he took the Fifth Amendment, his own  
25 constitutional rights, until it is done -- over with, and I can

1 have a clear picture of exactly what was said. And like the  
2 Judge said, I was confused about that testimony. See, I have  
3 not attended this trial. I'm not really -- it has an interest  
4 to me, but I'm not keeping up with it. You know, Jorge Garza  
5 is no longer my employee. Okay? He is no longer my employee,  
6 so he's really not an interest to me anymore. The Government  
7 did their job and then -- that's great. But when this is all  
8 over with, when this trial terminates, then I will have a clear  
9 picture of what is -- of what has transpired, what all the  
10 testimony is. Then we can -- then I can do something, but not  
11 until then. I am not going to be impulsive and I'm not going  
12 to jump the gun and I'm not going to violate his rights for  
13 invoking his Fifth Amendment.

14 **BY MS. GUTIERREZ:**

15 Q You're actually protecting him, aren't you?

16 A That's absurd, Ms. Gutierrez.

17 **THE COURT:** That's argumentative.

18 **THE WITNESS:** I cannot believe you said that.

19 **THE COURT:** That's argumentative. Next question.

20 **THE WITNESS:** I cannot believe you said that.

21 **BY MS. GUTIERREZ:**

22 Q Well, you have information at this time -- I mean, you  
23 don't have to wait until the resolution of this trial in order  
24 for you to take action; isn't that correct?

25 A Yes. I do because I want a clear picture of what has



1 happened.

2 Q I'm not asking what you want. I'm asking, you don't have  
3 to. You don't have to --

4 A I could be impulsive, I could be -- I could react to what  
5 has happened and maybe commit a very great error. But if --

6 Q Or maybe --

7 A But maybe -- but obviously you don't know the way I  
8 operate, you know.

9 Q But you could start an investigation and weed out a rotten  
10 apple, too, right? That's a possibility.

11 A If he is a rotten apple, and he's been there this long, I  
12 don't think a couple of more days are going to make any  
13 difference. Okay? Once this is over with, then I will be able  
14 to take action.

15 Q And it seems like you keep stating that you're not going  
16 to start an investigation on him simply because he invoked his  
17 Fifth Amendment right, right? That's what you're saying?

18 A Right.

19 Q Okay. And what I want you to understand is that I'm not  
20 telling -- I'm not saying or suggesting that you investigate  
21 him simply because he invoked his Fifth Amendment right, but  
22 because there is testimony that implicates him in wrongdoing,  
23 and that's the testimony that you say you lack.

24 A That's right, exactly. And once it is dealt with and I  
25 get a clear picture of what has transpired, then I am -- then

1 I'm able to make that phone call and then I am able to do  
2 something about it, but not until then.

3 Q It's improper for your -- any of your employees to sell  
4 law enforcement-sensitive data to drug dealers, correct?

5 A Absolutely.

6 Q And you, yourself, have never sold law enforcement-  
7 sensitive data to drug dealers, have you?

8 A Of course not.

9 Q And you knew that Guerra -- you knew the Guerras, didn't  
10 you?

11 A No. I did not know who the Guerras were -- I didn't even  
12 know -- I knew -- I did not know who the Guerras were until  
13 12/12 of '12, when the Panama Unit was busted out and all the  
14 leaks started -- people started talking about it. Then that's  
15 when -- that's the first time I knew who they were.

16 Q But isn't it true that you know who donates to your  
17 campaign? You testified earlier --

18 A Yes.

19 Q -- that you do.

20 A I do. And what you're alluding to, Ms. Gutierrez, is --

21 Q No. But let me ask the question --

22 A Go ahead.

23 Q -- without you having to do that. The Guerras contributed  
24 substantially to your campaign, correct?

25 A Not substantially.

1 Q But they -- okay. They contributed to your campaign.

2 A Yes, they did.

3 Q And they contributed to your campaign in quantities that  
4 were in excess of \$10,000, correct?

5 A That's not true, not to my knowledge.

6 Q And you would know, correct?

7 A I would know because I fill out a campaign report. And  
8 the only check -- the only money that I know that we got from  
9 the Guerras was a \$1,000 check, and it wasn't from -- with a  
10 Guerra name on it. It was Astro Trucking, and I had absolutely  
11 no idea who Astro Trucking was.

12 Q So you're not suggesting to the jury that the only  
13 campaign contributions you received are in the form of a check,  
14 correct?

15 A No, of course not.

16 Q Okay. So you received cash, too.

17 A That's right. I -- we have received cash over the years.  
18 That's right.

19 Q And you have received cash from the Guerras for your  
20 campaign, correct?

21 A No. That's not correct. I have -- I don't believe I've  
22 ever received any cash from the Guerras.

23 Q And so you're telling the jury that you are aware of where  
24 every single dollar that comes into your campaign comes from?

25 A No.

1 Q Okay. So then it's possible that you have received cash  
2 campaign contributions for your campaign from the Guerras,  
3 correct?

4 A If somebody lied to me, it is -- yes, it is possible. I  
5 mean, you can donate to my campaign, you give it to Jorge, and  
6 Jorge give it to me and Jorge says, "I'm giving you this  
7 money." I would never know that it came from you. I would  
8 never know that.

9 Q So you just take money from people without asking where it  
10 came from?

11 A I would ask him, "Jorge, where'd it come from?" and if  
12 Jorge wanted to take credit for it, he would say, "No, it's  
13 coming from Jorge." Now, if he wants to give you the credit  
14 for it, for -- and put your name on the report, he would say,  
15 "It's coming from Ms. Gutierrez."

16 Q But --

17 A Nobody ever told me that the Guerras contributed cash to  
18 our campaign.

19 Q But aren't there rules that indicate that after a certain  
20 amount of money, that you have to report that?

21 A Yes.

22 Q Okay. So then it would mean that you would have to be on  
23 top of that so that you can fill out the proper paperwork,  
24 correct?

25 A That's right. And I depend on the person that's bringing

1 me the money to tell me where that money came from.

2           **THE COURT:** Can you even accept more than a hundred  
3 dollars in cash from a single contributor?

4           **THE WITNESS:** Pardon?

5           **THE COURT:** Isn't there a hundred dollar limit in  
6 cash that you can receive?

7           **THE WITNESS:** There is no limit.

8           **THE COURT:** No limit. And --

9           **THE WITNESS:** It's -- was --

10           **THE COURT:** -- is there a limit on -- or prohibition  
11 against receiving campaign contributions from a corporation  
12 rather than an individual?

13           **THE WITNESS:** From a corporation, yes.

14           **THE COURT:** So Astro Trucking, how is it that a --

15           **THE WITNESS:** It's a company. It's not incorporated.  
16 It -- on the check, it says -- I believe it said, "Astro  
17 Trucking Company." It's not an incorporation -- it's not  
18 incorporated.

19           **THE COURT:** So you don't have to book that under an  
20 individual's name?

21           **THE WITNESS:** No. Whoever the check comes from is  
22 how we book them on the sheet.

23 **BY MS. GUTIERREZ:**

24 Q       So then you know all the loopholes, right?

25 A       What -- no.

1           **THE COURT:** That's argumentative.

2           **MS. GUTIERREZ:** Well --

3           **THE WITNESS:** What are you talking about?

4           **THE COURT:** Rules, campaign finance rules.

5           **MS. GUTIERREZ:**

6           Q     You know all the campaign finance rules?

7           A     Not by heart I don't. I know the ones that I need to  
8           know.

9           Q     Which are?

10          A     If somebody gives me money, I must report it.

11          Q     What amounts?

12          A     Any amount.

13          Q     So you report every single dollar that's contributed to  
14          you?

15          A     I -- everything that is given to me is reported.

16          Q     So then if someone contributes to you \$5, you report that?

17          A     I don't think anybody's ever given me \$5, but if they did,  
18          I guess I'd be obligated to do so. The rule -- I believe the  
19          rule is anything above \$50 in cash must be reported under an  
20          individual's name. I think that's what it is. Unless -- and  
21          it's almost impossible -- and any candidate will tell you this  
22          -- because if they're selling, let's say, barbecue tickets to -  
23          - for -- to raise funds, and somebody buys \$200 worth of them,  
24          nobody's going to write their name down. It's just not done.  
25          I mean, that's a practice that is not done. Any candidate will

1 tell you that. As long as you report that you received \$200  
2 and it was given to you by a certain individual.

3 Q So when you say, "I don't think anyone's ever donated \$5  
4 to me," what is the least amount of a donation that you've  
5 received?

6 A I have no idea. I would have -- maybe 50, maybe \$25. I  
7 don't remember. I don't recall the numbers.

8 Q Isn't it true that you utilized the Guerras in order to  
9 obtain products like food and drinks for some of your  
10 fundraisers?

11 A No, that's not true. I have no knowledge of that  
12 whatsoever, none.

13 Q Isn't it possible that some of your commanders may have  
14 utilized the Guerras, Seniors (sic) for those purposes?

15 A It is possible that some of my employees could have used  
16 the Guerras for that. Yes, that is possible.

17 Q And do you think it's okay for the Sheriff to be accepting  
18 money from drug dealers for these fundraisers?

19 A Of course not, of course not. And there's been times  
20 where I have turned money back. Now, with the Guerras, again,  
21 I had no idea who the Guerras were until this whole thing came  
22 out. I -- they were never on our radar. We never -- I don't  
23 think we ever investigated them for anything. I had no idea  
24 who they were. All I knew is that I got a -- I believe it was  
25 J.P. Flores -- I'm not sure who it was -- that brought us the

1 check for a thousand dollars from Astro Trucking Company, and  
2 we recorded it, deposited it, and went through the system.  
3 Now, I had no idea at all who the Guerras were. And I do not  
4 accept any contributions from any drug dealers, nor am I in  
5 collusion with any drug dealers. That'd be absurd. I don't do  
6 that.

7 **THE COURT:** Why don't we take our mid-afternoon  
8 recess. We've been going an hour and a half now. All right.  
9 This will be about a 15 minute recess for the jury. All right.  
10 We'll get started in 15 minutes.

11 **THE CLERK:** All rise.

12 **(Jurors exit at 2:53 p.m.)**

13 **(A recess was taken from 2:54 p.m. to 3:13 p.m.)**

14 **(Jurors enter at 3:13 p.m.)**

15 **THE COURT:** Good afternoon. Again, please be seated.  
16 All right. You may resume.

17 **DIRECT EXAMINATION (CONTINUED)**

18 **BY MS. GUTIERREZ:**

19 Q Sheriff, were you aware that Padilla would send deputies  
20 on county time to go have his shoes shined?

21 A Absolutely not. I have not -- that's the first time I  
22 hear about that.

23 Q Were you aware that Padilla would send the deputies on  
24 county time to go pay his personal taxes?

25 A Absolutely not. It's the first time I hear about that.



1 Q Isn't it true that J.P. Flores would drive you to the  
2 airport whenever you were flying out of town?

3 A I had J.P. Flores drive me to the airport on company time  
4 when I was going on company business so I would not have to  
5 leave my vehicle and park and pay the airport parking fees here  
6 at the McAllen airport. And he would pick me up at the  
7 airport. That's right. J.P. and Jerry Del Angel both did  
8 that.

9 Q What were J.P. Flores's duties in Crime Stoppers?

10 A He was the coordinator. And by that, he actually ran the  
11 entire program.

12 Q But he wasn't in charge of the Crime Stoppers program, was  
13 he?

14 A Well, he was in charge of the program itself, but it came  
15 under the purview of Commander Padilla.

16 Q So he was the head of the deputies in that department?

17 A Who?

18 Q J.P. Flores.

19 A J.P. Flores was of equal rank to Jerry Del Angel. And at  
20 one time, I believe Fabian Rodriguez was also assigned to -- I  
21 believe he was assigned to Crime Stoppers for a time. He  
22 didn't have any supervisory capabilities over them because he  
23 wasn't -- he didn't have rank over them. But he coordinated  
24 the program.

25 Q J.P. Flores would give directions and instructions to

1 sergeants and lieutenants on behalf of Joe Padilla; isn't that  
2 correct?

3 A I am not aware of that, no. And I cannot see a deputy  
4 giving instructions, orders to command staff members. No. I  
5 don't see that.

6 Q But if a -- if some -- if a sergeant or lieutenant  
7 received an order from a deputy that was coming from Padilla,  
8 they would probably do it, correct?

9 A Probably, yes. But that wouldn't -- that's not the  
10 natural order. I mean, deputies don't carry orders for  
11 commanders. I mean, commanders make -- you know, give their  
12 own orders. So I don't -- I guess it's possible, but I just  
13 don't see it happening.

14 Q Okay. So you're telling the jury that if that was  
15 happening, it was happening without your knowledge, correct?

16 A Well, absolutely, because a deputy has no rank or any  
17 supervisory authority over anybody above him, period.

18 Q Okay. And just so we're clear, you're telling the jury  
19 that if J.P. Flores, who was a deputy, was giving directions  
20 and instructions to lieutenants and sergeants on behalf of Joe  
21 Padilla, that would be happening without your knowledge,  
22 correct?

23 A Absolutely, yeah.

24 Q And you would find that out of the chain of command,  
25 correct?

1 A I guess it would depend on the circumstances, Ms.

2 Gutierrez. If it was an emergency-type thing, I mean, I can  
3 see it happening, where something had to be taken care of  
4 immediately and Padilla could not give the order himself. I  
5 could -- I can see that happening in the workplace. But it's -  
6 - it'd be unusual.

7 Q Okay. But in the daily course of business, you would find  
8 that out of the ordinary?

9 A Yes, absolutely.

10 Q And you probably don't believe that it happened, correct?

11 A Well, no. I'm not saying that, because it -- under  
12 emergency-type situations, it could happen.

13 Q Well, right. I'm talking about in daily -- normal daily  
14 (indiscernible).

15 A Right, exactly, yeah. It's hard to believe. Now, did it  
16 happen? Well, maybe it did. I don't know. I have no  
17 knowledge of it. But it would be hard to believe that it did,  
18 that J.P. would be issuing orders to sergeants and lieutenants.  
19 I mean, that doesn't make any sense.

20 Q Okay. And so continuing with what J.P. Flores's duties  
21 were, can you --

22 A Well, he coordinated the program. By that I mean he  
23 attended the Crime Stoppers board meetings. He was my  
24 representative there. I might have gone to maybe one or two.  
25 He coordinated anonymous tips coming in and he coordinated the

1 -- I guess the scheduling of how those -- of the meetings. And  
2 I think he also made the presentations to that -- to the county  
3 board on payments or information. He did everything that it  
4 took to run the Crime Stoppers Unit, between him and Jerry Del  
5 Angel and I believe Fabian was there one time. But he was  
6 primarily responsible for it. He had the most experience in  
7 that field. When I took over in 2005, he was already there.  
8 And it's such an area where you have to have this expertise and  
9 know the rules and regulations that it would have made no sense  
10 to change him. He was doing a good job as far as I knew.

11 Q Well, knowing now what you know, that turned out to be a  
12 bad decision, huh?

13 A Keeping him there?

14 Q Yes.

15 A Unless I knew that he was doing something wrong --

16 Q No. I'm saying --

17 A -- and I had no knowledge.

18 Q No. I'm saying now, knowing now what you know, which is  
19 that he has pled guilty to conspiracy to possess with intent to  
20 distribute marijuana, cocaine, and methamphetamine, now,  
21 looking back, that was a bad decision, correct?

22 A Yeah. Monday morning quarterbacking, absolutely.

23 Q And speaking about mornings, you -- J.P. Flores was one of  
24 the individuals that you would brief with every morning,  
25 correct?

1 A No. That's not true.

2 Q Did you never brief?

3 A No.

4 Q Never?

5 A Not with J.P. Flores, no. Not on Crime Stoppers stuff.

6 Q How about anything else?

7 A No. J.P. Flores I think had never -- hardly ever came to  
8 my office. I don't think -- he had nothing to brief me on. He  
9 was -- the commanders and the captains are the ones that I hold  
10 briefings with every morning. They're the ones in charge of  
11 the bureaus and the divisions. Very rarely would I speak to a  
12 lieutenant or a sergeant, unless it was out of the homicide  
13 unit. And then -- or the kidnapping unit. Those I do keep  
14 direct contact with the sergeant and lieutenants of those  
15 units. But all the others I don't.

16 Q And it would be less likely that you speak with the  
17 deputies, correct?

18 A I try to make myself available to the rank and file as  
19 much as I can, but -- like I'll walk the hallways, go to  
20 briefings, go to their offices. I mean, I have to make myself  
21 available to them but, you know, as Sheriff of one of the  
22 largest sheriff's offices in the State of Texas, I have a lot  
23 of administrative duties, so it doesn't give me the opportunity  
24 to be in the field. I mean, I'm out on the street on Saturday  
25 nights just to do backup calls and just to get involved with

1    them, but that's the only opportunity I get.

2    Q     Do backup calls with whom?

3    A     Well, when deputies go out on and get calls, they get  
4    whatever type of calls, I try to get out there in the street  
5    with them. I'm probably the only staff member that has a  
6    laptop computer assigned -- attached to my truck so I can see  
7    all the calls that are coming in. So I try to be interactive  
8    with our deputies as much as I can, but I can only do it in the  
9    evenings and at nights.

10   Q     So you weren't aware of the daily activities that were  
11   going on in Crime Stoppers, are you?

12   A     Not a minute-for-minute. No, I was not. It's one of  
13   those units that pretty much ran on its own. You know, we have  
14   a commander in charge of it.

15   Q     Tell me how the tips would come in. How would that work?

16   A     The way I understand it -- and, again, you know, you have  
17   to work that field to really know how Crime Stopper (sic) work,  
18   and I'm not that familiar with that unit.

19   Q     You are not that familiar with it?

20   A     No. It's too detailed. We just rewrote the entire  
21   protocols for it, as a matter of fact.

22   Q     Well, I'm asking you --

23   A     Back then.

24   Q     -- during the period of time --

25   A     Yeah.

1 Q -- in 2009.

2 A The -- an anonymous caller would call a -- the number, 66-  
3 8-7-T-I-P-S, he would -- the person would give the information  
4 to whoever answered the phone, and it was one of three people.

5 Q Was it a phone that was there at the office?

6 A No. It's a cell phone.

7 Q Okay.

8 A Most Crime Stopper units throughout the state operate on  
9 cell phones --

10 Q Okay.

11 A -- so they can always be available. And they take the  
12 call and then the -- whoever took the call would then relay it  
13 to whatever unit it pertained to.

14 Q Were you aware that J.P. Flores was running license plates  
15 for drug dealers?

16 A Absolutely not.

17 Q You're familiar with Julio Davila, aren't you?

18 A Yes, I am.

19 Q And you know him personally, correct?

20 A I know him personally, that's right.

21 Q And you are also -- you're aware that he also pled guilty  
22 to conspiracy with intent to possess marijuana?

23 A That's right. I am aware of that.

24 Q And he was also a contributor of yours; isn't that true?

25 A Yes, he was.

1 Q He would have some boots made for you; isn't that correct?

2 A I believe he did that -- do that -- in 2004.

3 Q That type of contribution, do you have to report it?

4 A It was a gift from one friend to another. It was not a  
5 contribution.

6 Q Oh. So you and Julio Davila were friends?

7 A Well, he was an acquaintance of mine. That's when I first  
8 met him, yeah.

9 Q Were you aware that he was engaged in criminal activity?

10 A Absolutely not.

11 Q Were you aware that he was utilizing the services of the  
12 Hidalgo County District Attorney's Office for his criminal  
13 activity?

14 A Absolutely not. I had no idea that Julio was doing that.

15 Q There was an incident where Julio assisted Guerra, Senior  
16 in recovering some firearms from your office that you all had  
17 seized. Do you recall that?

18 A Vaguely. I do remember -- I remember -- I didn't know it  
19 was Guerras. I do remember that Mr. Davila had wanted some  
20 weapons released and I referred him over to somebody in the  
21 Criminal Investigation Division to take care of the matter. I  
22 mean, if we had -- if those weapons were no longer of any  
23 evidentiary value to us and if those weapons were no longer of  
24 use to us or they were not stolen, then we have to release them  
25 back to the owners. But I do -- I didn't know it was to the



1 Guerras. I don't remember them being the Guerras. I do  
2 remember Mr. Davila asking me to look into the case and I  
3 referred him to the CID people.

4 Q So you may have known at the time that they were Guerras -  
5 - the Guerra's firearms, but you don't recall that now?

6 A No, no. I've never known who the Guerras were until it  
7 all busted out. I remember Mr. Davila asking about the case,  
8 and then I referred him to the Criminal Investigation Division,  
9 says, "Go speak with them."

10 Q And because you and Davila were friends, he went directly  
11 to you to request those weapons, correct?

12 A Right. And I referred him to the proper people.

13 Q Isn't it true that you told Fabian Rodriguez to stay away  
14 from the Guerra, Seniors because they were being -- from the  
15 Guerras because they were being investigated?

16 A What happened on that, I got a call from a political  
17 operative of mine in Elsa.

18 Q What's a political operative, before we go any further?

19 A Political operative is -- it would be an individual that  
20 helps me with my campaign, puts up signs, gets location for  
21 signs, you know, that level type of work.

22 Q Okay.

23 A He calls me and says, "Look, we -- the people in Elsa are  
24 talking." And I said, "What are you talking about?" He says,  
25 "They're saying that Fabian is hanging around with some drug

1 dealers, this Astro Trucking people." And I said, "Is there  
2 anybody that is willing to come forth, give me an affidavit, or  
3 are you willing to give me an affidavit to show that Fabian is  
4 doing this?" He says, "Nobody wants to come forward." I said,  
5 "Who are these people?" He said, "All I know is some drug  
6 dealers, they're from Astro Trucking." I said, "Okay." I  
7 called Fabian immediately on the phone and I said, "Fabian, I  
8 just got information that you are consorting with some drug  
9 dealers of the Elsa area. They are supposed to be Astro  
10 Trucking. And I need to know are you doing this? Are you  
11 hanging around with them? Are you doing anything with them  
12 whatsoever?" And he said, "No. I am not." He said, "I know  
13 them, I know who they are," he says, "but I am not." And right  
14 before we hung, then he says, "And Sheriff, I want to assure  
15 you" -- and I'll never forget this -- he said, "Sheriff, I want  
16 to assure you that I have not done anything illegal with them  
17 or anybody else." And then my goodbye to him was, "Fabian, you  
18 know what my rules are. If you consort with criminals, I'm  
19 going to fire you. If I find out that you are violating the  
20 law in any way, I'm going to fire you and arrest you." He  
21 said, "I know that, Sheriff. I would never do that to you or  
22 to myself." Then we hung up. I did not warn him, "Stay away  
23 from the Guerras." I warned him to stay away from any drug  
24 dealer or anybody involved in any criminal action.  
25 Q But you didn't start an investigation on the Guerras

1 either, did you?

2 A I didn't know who the Guerras were, Ms. Gutierrez. I  
3 already told you that. I know there was Astro Trucking. I  
4 didn't have -- I mean, you'd be surprised how many calls we get  
5 of people saying, "These are drug dealers" and "they're not  
6 drug dealers," and we don't have -- I don't have the manpower.  
7 I don't have the resources to apply to all those calls. I just  
8 don't do it.

9 Q Well, I understand that, but --

10 A I don't have it.

11 Q -- as the Sheriff of this county -- as a citizen of this  
12 county, shouldn't we be -- feel comfortable that if you get a  
13 tip that somebody's doing something wrong, that you at least  
14 inquire into it and investigate?

15 A Ms. Gutierrez, I don't think you understand how large we  
16 are and how many calls we get like that.

17 Q So are you saying that you can't do that --

18 A Of course I can.

19 Q -- that you cannot?

20 A Of course I can. But there was nothing to work with. And  
21 I asked --

22 Q But this came from --

23 A -- the caller to give me -- people to give me information  
24 so we could start something, either on Fabian or them. He said  
25 he couldn't do it because it was just rumors that were floating

1 around.

2 Q Well, I understand that. But what it sounds like you're  
3 saying is that before you even investigate anything, you need  
4 affidavits.

5 A No. That's not true. That may sound like that to you,  
6 but that is not true.

7 Q Okay. So then in other cases, you don't need affidavits  
8 and you don't need anything other than a tip for you to start  
9 investigating, correct?

10 A That's correct.

11 Q However, in this case, you didn't do that with the  
12 Guerras, right?

13 A That's right.

14 Q Okay. And this information that you got was from a  
15 political operative that was trustworthy, correct?

16 A Yes. Yeah, he's a trustworthy person. But he didn't have  
17 any names. He had the name of the company.

18 Q I understand that.

19 A Yeah.

20 Q You could have, had you chosen to, sent out someone in  
21 investigations to go take a look around the company, correct?

22 A Take a look around the company?

23 Q Yes.

24 A Yeah. I guess I could have, yeah.

25 (Pause)

1 Q Now going back to convicted drug trafficker Julio Davila,  
2 how long did you know him?

3 A I first met him in 2004, I believe -- 2005 maybe.

4 Q And you were friends up until the time he was arrested?

5 A No. We were not friends. He -- Julio Davila, I guess you  
6 would have to know him. He's like a groupie. He likes to  
7 involve himself with people, you know. He -- we never had a  
8 social understanding. We never went out and ate, we never had  
9 coffee together, we just didn't do anything like that. He was  
10 somebody that was just there. And the reason I knew him more  
11 than anything else was his work with attorneys and his work  
12 with bail bondsmen. That's how I knew him more than anything  
13 else.

14 Q But you accepted some boots from him, right?

15 A Initially, yes. That's right.

16 **(Pause)**

17 Q Didn't you hear -- as a Sheriff, didn't you hear the same  
18 rumors that were common to everyone else about Julio Davila and  
19 what he was doing in stealing narcotics?

20 A No, no. Nobody has ever told me that Julio Davila was a  
21 drug dealer.

22 Q Even to -- and -- even to this point?

23 A No.

24 Q Even to right now?

25 A You're talking about the past now. You're asking me did I

1 have knowledge that Julio -- or heard rumors, and I never had.  
2 I never did hear that Julio Davila was a drug dealer until all  
3 of this came out.

4 Q Okay. So what point was the first time that you learned  
5 that Julio Davila was a drug dealer?

6 A When he got arrested. Nobody has ever given me  
7 information that Julio Davila was a drug dealer.

8 Q Would you consider yourself a man that has good judgment  
9 and perception of people?

10 A I believe so.

11 Q Okay. And don't you agree that drug dealers -- there's  
12 some identifying factors.

13 A Are you talking about profiling a drug dealer?

14 Q Well, I mean, there's identifying factors of individuals  
15 who maybe don't have jobs but have a lot of material things,  
16 have a lot of money, without an explanation as to where that  
17 money comes from.

18 A I guess you could say that, yes.

19 Q And you never saw those patterns in Julio Davila?

20 A As far as I know, Julio Davila always had a job, as far as  
21 I know. He always either represented a bail bond company, was  
22 an agent for a bail bond company, or he was an agent or a  
23 runner for a law firm. And that's -- that was my dealings with  
24 him. My dealings with him were not social. I mean, he -- as  
25 far as I knew, he always had a job.

1 Q Okay. But he contributed to you -- to your campaign,  
2 correct?

3 A That's right, yeah.

4 Q Okay. So he wasn't just someone that you didn't know much  
5 about. You knew that he contributed money to your campaign,  
6 correct?

7 A Yeah, like a lot of the people that I don't even know.

8 Q Well, right. But --

9 A Yeah.

10 Q -- in his profession, he was a bail bondsman. He didn't  
11 own the bail bonds company, correct?

12 A That's right. He was a -- I think they call them agents  
13 or runners for them, yeah.

14 Q Okay. And so he had probably an 8:00 to 5:00 job like  
15 everyone else, correct?

16 A I have no idea what his hours were.

17 Q Okay. But what I'm saying is that he wasn't a business  
18 owner, correct?

19 A No. I guess not. I mean, I don't know if he owned a  
20 business or not. I have no idea what his economic situation  
21 was. All I knew was that he was associated with bail bond  
22 companies and lawyers.

23 Q When he contacted you about the firearms that belonged to  
24 the Guerras, he contacted you directly to your cell phone,  
25 correct?

1 A I don't remember how -- I don't remember if he contacted  
2 me on the cell phone or the office phone. I don't remember.  
3 That was a long time ago. I didn't remember when it was.

4 Q Okay. Well, in order for someone to contact you at your  
5 office, you couldn't just dial the Hidalgo County Sheriff's  
6 Office number and get you on the line, correct?

7 A Sure you can.

8 Q Well, you -- would you answer the phone if I called the  
9 Sheriff's Office?

10 A If you called my desk phone, I would.

11 Q Okay.

12 A If you call my cell phone, I would.

13 Q Well, right. But I would have to have your cell phone in  
14 order to call it, correct?

15 A You'd have to have my cell phone, that's right.

16 Q Okay. And I would have to have your desk phone in order  
17 to call it, correct?

18 A Well sure, absolutely, yeah.

19 Q And so then Julio Davila had either your cell phone or  
20 your desk phone, correct?

21 A Like thousands of people have my cell phone. I've had the  
22 same cell phone for the last nine years and half of the county  
23 has it. I make myself very accessible to everybody.  
24 Everybody's got my cell phone number.

25 Q Would you care to share it with the jury then?



1 A Sure. Would you like me to?

2 **THE COURT:** That's okay. We don't need it.

3 **MS. GUTIERREZ:** I'm kidding.

4 **BY MS. GUTIERREZ:**

5 Q When you're -- when you have your fundraising events, we  
6 talked already about a flyer that you said they weren't  
7 tickets. You corrected me and you said they weren't tickets,  
8 they were flyers.

9 A Yeah.

10 Q Did you have events that you sold tickets for?

11 A Oh, yeah, yeah.

12 Q Okay. And so there is a distinction between the  
13 fundraisers that you had, some were with flyers and some were  
14 with tickets?

15 A That's right.

16 Q Okay. And the fundraisers that you had when you had  
17 tickets, those tickets could sell for as much as a hundred  
18 dollars, correct?

19 A That's correct.

20 Q And even higher, correct?

21 A I don't think so. I don't think we've ever had -- I don't  
22 think I've ever had a fundraiser where the ticket was more than  
23 a hundred dollars. I don't think so.

24 Q Okay. So this was different than the flyer. It was  
25 possible that the flyer could be -- but the events that had a

1 flyer could be for more than a hundred dollars, correct?

2 A Oh, yeah, absolutely, yeah.

3 Q Okay. How high could the amount be for the flyers?

4 A You know, you asked me that earlier, and I don't remember.  
5 I would have to find a flyer or I'd ask Commander Montemayor.  
6 He would definitely know.

7 Q Could it be as high as a thousand dollars, a flyer?

8 A Yeah, probably so, yeah.

9 Q Okay. So with respect to the tickets -- not the flyer --  
10 isn't it true that the tickets were disseminated within the  
11 employees of the county for them to sell them?

12 A Not only employees, but any other citizen that wished to  
13 help me out.

14 Q Well, right. But what I'm asking --

15 A Yeah.

16 Q -- you is that you would give them out to the employees of  
17 the Hidalgo County Sheriff's Office and have them sell them.  
18 Not necessarily that they wanted to, you were just giving them  
19 to them.

20 A No. That's -- that is not true. That's been a rumor and  
21 an allegation made by my political opponents for years. That  
22 is absolutely not true. Again, you have to volunteer in order  
23 to work on my campaign. Nobody forces you to do anything -- at  
24 least I don't. And everybody knows that rule. All the  
25 commanders, all the captains know you have to volunteer. If

1 you want to volunteer that you want to sell "X" number of  
2 tickets to a fundraising dinner, well, you take them and you go  
3 sell them. But you do it off duty, and you have to volunteer.  
4 Now, what's clear here is I never give any tickets out. If I  
5 did, it was maybe one time this last fundraiser that I had like  
6 maybe a month, two months ago. There was ten, 15 left over,  
7 and they said, "I got ten tickets left over." I said, "Well,  
8 let me give them to individuals there at the office." And I  
9 asked her, "Do you have the opportunity to sell these tickets  
10 for me?" She said, "Yeah. I can get rid of them," and she  
11 did. That is probably the only time in nine years or ten years  
12 that I have done that.

13 Q Have you heard testimony come out of this trial wherein  
14 people -- deputy -- former deputies have testified that they  
15 were forced to sell tickets?

16 A I have not heard the testimony because I wasn't here.

17 Q Okay. No, have you heard about --

18 A About it?

19 Q -- that testimony?

20 A I -- yes, I did.

21 Q Okay. And are you aware that J.P. Flores indicated that  
22 you had to sell the tickets or buy them?

23 A I heard that, yes. And that -- go -- I'm sorry. Yes, I  
24 heard that.

25 Q And you heard that that was something that was ordered by

1 Padilla?

2 A I heard from a reporter that J.P. Flores had testified to  
3 that.

4 Q And so is that something -- is that a rule that you would  
5 implement?

6 A Absolutely not. Again, you have to volunteer and you have  
7 to say, "I want to do it." If I find out that anybody was  
8 being forced to do something like that, I would have taken  
9 action immediately --

10 Q And --

11 A -- because for the simple reason, it would be political  
12 suicide for me to do something like that, number one. Number  
13 two, if I condone that practice, I would lose the respect of my  
14 employees. I do not force them to do anything they don't want  
15 to do. They must volunteer. And they know my character and  
16 they know my reputation, and they know that I would never allow  
17 something like that.

18 Q Don't you currently have some lawsuits pending from former  
19 employees who are claiming that you did just that?

20 A There's some lawsuits that have been filed. That's right.  
21 I have no idea what they are claiming.

22 Q Oh, you don't know the particulars of the lawsuits?

23 A No. I don't. I gave them to our legal staff and they  
24 take care of it.

25 Q So you just testified that if you had any information that

1 they -- someone from your office was doing that, giving tickets  
2 and forcing employees to sell them --

3 A Right.

4 Q -- that you would take action. Well, now that you know  
5 the allegation that J.P. Flores has made about Padilla, will  
6 you take action and investigate this issue?

7 A I would like to have J.P. Flores come to my office and  
8 make that complaint, and of course I would.

9 Q So it's not enough that he made it under oath?

10 A No, it's not. It would have to -- he would have to come  
11 to my office and make that complaint. You know, if J.P. Flores  
12 has been doing this for nine years, why didn't J.P. Flores come  
13 to my office and tell me? I mean, I've got an open-door  
14 policy. And I've had -- when he's taken me to the airport, we  
15 would have this personal conversation and I would ask him,  
16 "Things going okay for you?" He said, "Yeah, I got no  
17 problems." "Everything all right?" "I got no problems." Just  
18 like I ask all my employees. Not one time did J.P. Flores ever  
19 complain to me about any type of treatment or mistreatment that  
20 he was receiving by anybody.

21 Q But you understand, Sheriff, that you are a powerful man?

22 A No. I don't understand that.

23 Q You don't understand that?

24 A No, I'm not a powerful man. I've got a title.

25 Q Well, I'm not --

1 A I've got a title that belongs to the people. I am not a  
2 powerful man.

3 Q Well, right. I am not saying that Guadalupe Lupe Trevino  
4 is a powerful man. I am saying Sheriff Guadalupe Lupe Trevino  
5 had -- is a powerful man. Would you agree with that?

6 A No. I wouldn't. I wouldn't.

7 Q Okay. Well, how about at least within the Hidalgo County  
8 Sheriff's Office, because you are the Sheriff and at the top,  
9 that you have the power in that office?

10 A Oh, absolutely. Now that's true.

11 Q Okay. And so if J.P. Flores is driving you to the  
12 airport, he's driving the most powerful person in his job to  
13 the airport, correct?

14 A He's driving his boss.

15 Q Yeah. He's driving his boss.

16 A Yeah.

17 Q And you're not his only boss, but he has a supervisor that  
18 he reports to and who -- and that supervisor reports to you;  
19 isn't that correct?

20 A That's correct.

21 Q And so then if he were to tell you or make a complaint to  
22 you that implicates his supervisor, that would have some  
23 consequences on him, wouldn't it?

24 A Well, I don't know. I guess it all depends what that  
25 supervisor would do.

1 Q So then it's possible, right?

2 A Well, sure. Of course it is.

3 Q Okay. And so it's not very realistic to expect J.P.

4 Flores to have made a complaint to you about tickets for your  
5 fundraiser that he's being forced to sell, because in turn it  
6 would be a complaint about you, right?

7 A Oh, you confused me on that one. Ask me again. I'm  
8 sorry.

9 Q Well --

10 A I'm sorry. You just --

11 Q That's okay.

12 A You confuse me easily, but go ahead.

13 Q That's okay. If the tickets that he's being forced to  
14 sell --

15 A Yeah.

16 Q -- are for purposes of fundraiser for you --

17 A Uh-huh.

18 Q -- if he were to complain to you about being forced to  
19 sell those fundraising tickets, he's actually complaining to  
20 you about you.

21 A No. Because J.P. knows my character, and J.P. knows the  
22 way I operate. And J.P. should have come and told me, because  
23 they've -- if J.P. -- if actually J.P. Flores was being  
24 mistreated and was being forced to do something he didn't want  
25 to do, I think J.P. would have told me. I really think he

1 would have, unless he was just so terrified of Joe Padilla, if  
2 that's who you're alluding to, then I can see him not doing it.  
3 But I have had one or two employees come and complain to me  
4 about the words and maybe some of the treatment that Padilla  
5 did, and I took a very strong stance and I called Padilla in  
6 and I said, "Look, you're the old-type policeman. You're the  
7 old-kind policeman. You have to soften your approach." And he  
8 has admitted to me that he has softened his approach. We can't  
9 treat police officers -- managers cannot treat police officers  
10 the way we used to in the seventies. You know, things have  
11 changed dramatically since then -- and in the eighties. Things  
12 have changed dramatically. And I've brought Joe -- I brought  
13 Joe in several times and sat him down and said, "Look, you have  
14 to soften your approach. You know, your people are not going  
15 to respect you if you don't respect them. And you -- and your  
16 people are either going to make you or break you, so you  
17 respect them and you soften your stance." And he has admitted  
18 to me within the last year, several times he has admitted to me  
19 that I have changed his personality and that he has softened.

20 Q When was the last time you brought him in to talk to him?

21 A Oh, God, I don't know, like six months ago maybe? I'm not  
22 sure. I'm guessing. I -- that's not -- I'm not really sure.  
23 Maybe six months ago.

24 Q Well, it was within 20 -- 12 months, correct?

25 A Within the year I would imagine so. Yeah, we've talked.



1 We've talked about his -- the way he treats people. And he --  
2 I think he did soften his approach.

3 Q So then you have heard about this culture that he  
4 perpetuates of fear within the county?

5 A Well, see, what you described was -- and -- you described  
6 an elementary school bully. That's what you described: mean  
7 and scary and I have no idea what other words you used. And  
8 that's not the way we looked at it. I mean, at our level, Ms.  
9 Gutierrez, no, we would call that authoritative, over-  
10 authoritative; not mean and scary or whatever other words you  
11 used. So, yes, you know, Joe Padilla is old style, you know,  
12 he's an old school-type of guy, been around for a long time.  
13 You know, he doesn't have what you would call a formal  
14 education that has changed his way of being like others have.  
15 And I think I've done a lot in softening his stance. I think  
16 I've done a lot in that --

17 Q But you --

18 A -- because he has admitted it.

19 Q And you don't mind his style because he gets the job done,  
20 correct?

21 A No, no, no. I didn't -- of course I mind his style.  
22 That's why I called him in. Of course I did. I did mind his  
23 style, and I wanted a softer approach.

24 Q How long has he been with the county?

25 A Again, I'm going to guess. I would say 26 years maybe.

1 Maybe 26 years. I'm not sure.

2 Q And in 26 years, even up until the time that some deputies  
3 testified in this trial, who have been former employees of the  
4 county -- within months from now -- I mean, they retired  
5 recently -- and I'm talking about J.P. Flores --

6 A Okay.

7 Q -- he still maintains that over-authoritative style;  
8 wouldn't you agree?

9 A Well, he never did to me.

10 Q Well --

11 A And I used to ask him. I said, "J.P., is everything okay  
12 with you? Are you all right?" Because I don't talk to J.P. I  
13 said, "Is everything okay with you?" when he would drive me to  
14 the airport. That's the only time I ever saw him. He said, "I  
15 don't have a problem, Sheriff. We're doing okay."

16 Q Well, right. But you -- what you're saying is that he  
17 never complained to you --

18 A Right.

19 Q -- about his supervisor --

20 A Right.

21 Q -- who is one of your commanders.

22 A But that makes no difference. It's been done before.

23 Q But it makes no difference to you, but it might make a  
24 difference to the employee; wouldn't you agree?

25 A It may make a difference to J.P., but it did not make a

1 difference -- and I forget who it was -- one or two people did  
2 come to my office that complained about the over-authoritative  
3 approach that Joe Padilla was taking. And they didn't mind any  
4 possible consequences. They didn't.

5 Q Well, you're -- you don't know that. You -- you're just  
6 speaking --

7 A Obviously they didn't because they came and told me. And  
8 that's when I started talking to Joe and trying to soften his  
9 approach.

10 Q But if you heard this testimony about recent deputies who  
11 are testifying that he had an over-authoritative style --

12 A Yeah.

13 Q -- that means that in 26 years, he hasn't changed,  
14 correct?

15 A Well, either that or they're not telling you the truth.

16 **(Pause)**

17 Q The -- who was in Joe Padilla's inner circle?

18 A I have absolutely no idea what you mean by that.

19 Q Well, who were the -- his go-to guys within your county?

20 A You'd have to ask Joe Padilla that. I have no idea what  
21 his inner circle is.

22 Q I wish I could.

23 A Yeah. I will ask him for you if I see him, but I have no  
24 idea what you're talking about.

25 Q Okay. Wouldn't you agree that there were certain deputies

1 that Joe Padilla would surround himself with on a regular  
2 basis?

3 A I don't know that Joe Padilla was social with anybody. I  
4 don't believe he was. I don't think he went out to the movies  
5 or family picnics and that sort of thing with particular  
6 people. I don't think any of my command staff members do that.

7 Q He went to your fundraisers; isn't that correct?

8 A I had hundreds of my deputies go to my fundraisers.

9 Q Is that a yes?

10 A Yes.

11 Q And he would attend your annual skeet shoot events,  
12 correct?

13 A Along with numerous deputies, yes.

14 Q And at those events, were you able to witness him there?

15 A Yes.

16 Q Okay. And isn't it true that he was usually with J.P.  
17 Flores and Jerry Del Angel and Fabian Rodriguez even sometimes?

18 A Yes.

19 Q Other than the briefings, does Padilla have to prepare any  
20 type of written report to you on a regular basis?

21 A No. We do not have an evaluation system in the county.  
22 The only things I get from the command staff through the daily  
23 verbal briefings. And if there's any documentation attached to  
24 it, it would be a case file. But since Padilla is not in  
25 charge of any real law enforcement function of the department,

1 I don't get those type of things. I get them from Montemayor -  
2 - Commander Montemayor because of the homicides and the  
3 kidnappings and the home invasions. I get them from the jail  
4 because there's so many different incidents that occur in the  
5 jail, from Commander Garcia. And then I do -- and occasionally  
6 -- well, more than occasionally, I get my budget briefings from  
7 Commander Castaneda on our budget situation --

8 Q Well --

9 A -- and financial stuff.

10 Q Well, right. But I was not talking about briefings. I  
11 was talking about written reports.

12 A No. Right.

13 Q So none of your commanders provide you with written  
14 reports?

15 A Well -- I just said they did. I just explained to you who  
16 did.

17 Q Okay. So in the financial aspect, whoever's in charge of  
18 that does provide you with --

19 A Right.

20 Q -- something in writing?

21 A Absolutely, yeah, uh-huh.

22 Q You testified that Padilla was in charge of the golf  
23 tournament.

24 A I believe he was.

25 Q And that was a fundraiser for the county or for your

1 political campaign?

2 A Okay. Going back to that, when you say "county  
3 fundraising," I have never heard of that. This is the first  
4 time I hear about "county fundraising." The only fundraising  
5 that I am familiar with is that fundraising that is done for my  
6 campaign. This "county fundraising," I have no idea what  
7 you're talking about.

8 Q Okay. And that might be my fault. Well, it is my fault,  
9 and I apologize for that. But what would you call the toy  
10 drives and the turkey drives?

11 A Those are donations that, for example, I believe several -  
12 - like HEB, I believe -- HEB, Wal-Mart, they give items for us  
13 to distribute to the community.

14 Q And when I say, "fundraising events for the county,"  
15 that's what I'm talking about, because I'm taking those items  
16 as not necessarily funds, but stuff you collect. Okay?

17 A Well, that's -- those are not --

18 Q So that's --

19 A They're not funds.

20 Q And I understand that. I just want to --

21 A They're not money.

22 Q Right. And I want to clarify --

23 A Yeah.

24 Q -- so that you understand that I understand that I don't  
25 think the county is collecting money. Okay? The golf

1 tournament, is that political? Is that for your political  
2 campaign?

3 A That's right.

4 Q And what is Padilla -- what are Padilla's duties with  
5 respect to the golf tournament?

6 A He's -- I believe Padilla was either the chairperson or  
7 co-chairperson of that particular fundraising activity.

8 Q And if he was the co-chair, who would be the chair?

9 A The other co-chair. The other co-chair would probably be  
10 -- I'm not really sure. I think it would be Commander Garcia.  
11 I'm not really sure about that. I'd have to go back and ask  
12 them.

13 Q Were all your commanders in some way involved with your  
14 political fundraising events?

15 A As a matter of fact, most of my employees are.

16 Q Okay.

17 A Yeah.

18 Q And how does that happen? Do you say, "If you're  
19 interested" -- and because you state that it's voluntary  
20 only --

21 A Yeah.

22 Q -- strictly on a voluntary basis, do they show up to your  
23 office and say, "Hey, Sheriff, I want to volunteer?" Is that  
24 how --

25 A As a matter of fact, that happened twice here in the last

1 month or -- last three months.

2 Q Okay.

3 A I had a deputy come up to me and said, "Sheriff, I've got  
4 an idea to raise funds for you." And I said, "What do you want  
5 to do?" He said, "I want to have this dinner and I'll take  
6 care of everything. I'll be -- I'll put the committee together  
7 and we'll do it that way." I said, "Fine. Go ahead and do  
8 it." And I had nothing to do with it. He did it. John  
9 Montemayor came up to me years ago and said, "I've got an idea  
10 to raise funds for you." I said, "How are we going to do  
11 this?" He said, "Let's do an annual skeet shoot." I didn't  
12 even know what a skeet shoot was, and then he explained the  
13 concept to me. Ad he volunteered the idea and the people. And  
14 I said, "Fine. Do it." And we've been doing it ever since.  
15 That's usually the way it works.

16 Q Well, let's talk just for a quick second about tickets.  
17 If it's on a voluntary basis, then where -- are the tickets in  
18 a central location so that your employees show up to that  
19 location and say, "Can I have a pack of tickets because I'd  
20 like to volunteer and sell them?"

21 A Again, you would have to ask the chair people how they  
22 handle stuff like that.

23 Q Well --

24 A And I would imagine that it's either done that way or  
25 they're disseminated by and -- several levels. I don't know.



1 I'm telling you, from the very beginning I said, I don't get  
2 involved in the fundraising, and I don't get involved in the  
3 organization of it.

4 **MS. GUTIERREZ:** Your Honor, may we approach?

5 **THE COURT:** You may.

6 **(Begin bench conference at 3:56 p.m.)**

7 **MS. GUTIERREZ:** Your Honor, I was hoping that we  
8 could recess early --

9 **THE COURT:** I was going to --

10 **MS. GUTIERREZ:** -- (indiscernible) -- okay.

11 **THE COURT:** -- but I was going to shoot for like 4:00  
12 or 4:15.

13 **MS. GUTIERREZ:** You want me to go until 4:15? Okay.

14 **THE COURT:** I mean, you can. Are you going to stay  
15 on that awhile?

16 **MS. GUTIERREZ:** Well, I was going to change subjects,  
17 and that's why I thought to start something new and then --

18 **THE COURT:** Well, okay. There may be still a little  
19 bit more you could do with this.

20 **MS. GUTIERREZ:** I -- yeah, I could. I can go 15  
21 minutes with this.

22 **THE COURT:** It's 4:00. I mean, I --

23 **MS. GUTIERREZ:** Yeah.

24 **THE COURT:** Doesn't matter to me.

25 **MS. GUTIERREZ:** Why don't you just go another five

1 minutes and we'll just cut it off at 4:00.

2 **MS. GUTIERREZ:** Okay.

3 **THE COURT:** You have any problem with that?

4 **MR. STURGIS:** No.

5 **THE COURT:** Okay.

6 **(End bench conference at 3:57 p.m.)**

7 **BY MS. GUTIERREZ:**

8 Q And so what exactly was this golf tournament? What was  
9 that event? Like, what was it? I don't play golf, so I don't  
10 know what's --

11 A So what is your question?

12 Q What was this golf tournament event about?

13 A The purpose of a golf tournament, fundraising golf  
14 tournament, is to raise funds for the candidacy, for the  
15 election. And -- I don't play golf either. Never have in my  
16 life. I know that they go out there, play -- they call them a  
17 round of golf, I think, or two rounds of golf, and they  
18 contribute to buy a team. I'm really -- I'm not sure. I don't  
19 play golf.

20 Q Are you present at the tournament?

21 A Oh, absolutely, yeah.

22 Q Okay. So you see it all happen --

23 A Yeah.

24 Q -- but you don't participate.

25 A I do not.

1 Q And about up to how much could you collect on such an  
2 event?

3 A Total?

4 Q Yes.

5 A I don't know. Sometimes -- personally, I think in ours  
6 we've done up to 50,000, 60,000, something like that. I'm not  
7 really sure. I would have to look at the reports to give you  
8 an exact number. I'm not really sure.

9 Q Okay. You talked also about a barbecue drive.

10 A Right. Well, we've had that like six, seven -- say six  
11 years ago. We haven't had one in a long time.

12 Q Okay. And so what was that about? That was for -- that  
13 was political also?

14 A All fundraisers, Ms. Gutierrez, are political. And that  
15 particular fundraiser we had a certain number of tickets were  
16 printed out for a barbecue plate at I believe it was Ramos  
17 Barbecue. And on a certain date, you'd have to go redeem that  
18 ticket for a plate of barbecue.

19 Q What would you call National Night Out? That was just an  
20 event?

21 A No. National Night Out is a community outreach program  
22 where we pick a part of the county that is high crime or needs  
23 our attention more than others, and we take all of our  
24 available resources and we have this giant picnic for the  
25 people of the community, and just -- to interact with the

1 community, just to exchange information. I mean, this is done  
2 all throughout the United States.

3 Q Okay. Don't you provide food and drinks for the community  
4 on those events?

5 A Yes. We do.

6 Q Okay. And don't you pick up donations for the food and  
7 drinks?

8 A We -- I believe the way that's done, those are donated,  
9 for example, to the Salvation Army. They -- they're one of our  
10 partners, they participate in that program, and they show up  
11 with some food and drink. Wal-Mart donates to the community,  
12 so does HEB. And I don't know which other vendors or companies  
13 donate.

14 Q So when Julio Davila -- or there's testimony that Julio  
15 Davila donated fajitas or chicken --

16 A Yeah.

17 Q -- for some of these events, would that be a possibility?

18 A That could be true, yes.

19 Q Okay. So then you do pick up collections in form of items  
20 for some of these events?

21 A I've never denied that. I just explained to you how we do  
22 that. Yeah. That's -- for those community events, we do pick  
23 up items.

24 Q Okay.

25 A We don't pick up money. We pick up items from either

1 committee members or companies.

2 Q So you don't collect -- if somebody wants to donate a  
3 hundred dollars to go towards the food for that event, you  
4 don't accept the hundred dollars?

5 A I don't think that we can. The county cannot collect --  
6 the -- not collect, I'm sorry. The county cannot accept any  
7 monetary donations unless they go before Commissioner's Court  
8 first. And Commissioner's Court must accept it before it is  
9 donated to a particular department. Now, I think what you're  
10 alluding to is it is possible that maybe some companies donated  
11 to the Crime Stoppers Board. Now, the Crime Stoppers Board has  
12 absolutely nothing to do with the Hidalgo County Sheriff's  
13 Office or the county of Hidalgo government. The Crime  
14 Stopper's Board is an independent, nonprofit entity that  
15 operates by themselves. They've got their own reporting laws  
16 and all that stuff. And people donate to them, and then that  
17 Board will donate some of the toys or whatever to the  
18 community.

19 Q Because that has nothing to do with the Hidalgo County  
20 Sheriff's Office?

21 A Well, right. We don't -- we have no purview over the  
22 Crime Stopper's Board. They have their own precedent, their  
23 own Board. They do their own thing. They're a nonprofit  
24 organization. Okay?

25 Q Well, right. But are they part of the Sheriff's Office

1 for Hidalgo County?

2 A No. They're not a part of the Sheriff's Office.

3 Q Okay.

4 A No. They're not. We have no authority over them  
5 whatsoever.

6 Q Did J.P. work closely with that Board?

7 A Oh, absolutely. He's the one that reported to them on the  
8 anonymous tips, and the Board had to approve the compensation  
9 for the informant. That's their main duty.

10 Q So is it possible that J.P. Flores would collect cash for  
11 that Board for their events?

12 A I have no idea what J.P. did for that Board, not on that.  
13 I have absolutely no -- I have never heard of that and I have  
14 no knowledge of that.

15 **THE COURT:** All right. It's 4:00 p.m. Unfortunately  
16 the Court still has a lot of its other work to take care of  
17 before the end of the week, so I'm going to recess the jury at  
18 this time. We'll start at 8:30 Monday morning, so if everybody  
19 could be here by 8:30 Monday morning. Again, we expect Monday  
20 to conclude with the evidence, and then closing arguments  
21 probably Tuesday is what everybody is sort of estimating. We  
22 may finish early Monday. But, anyway, that's the current  
23 estimates. You can let your employers know. For those of you  
24 that need certificates of attendance for the week, we have  
25 those already prepared and we can provide them to you now for

1 the week.

2 My same admonishments. Please don't discuss the case  
3 with anybody. Please don't read anything about the case,  
4 listen to anything on the radio, or watch anything on TV about  
5 this case. All the evidence that you'll need to determine  
6 those decisions that you'll need to make in this case will be  
7 submitted to you here in the courtroom.

8 Your notepads, if you'll put them back in those  
9 sealed envelopes, we'll get them to you back on Monday morning.  
10 And keep your juror badges on while you're in the building.  
11 Thank you very much for being here all week.

12 **(Proceeding was adjourned at 4:04 p.m.)**

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CERTIFICATION

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.



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Signed

October 9, 2013

Dated

*TONI HUDSON, TRANSCRIBER*